

Acceptance of WA-61-L and WA-62-L Subsea Infrastructure Installation Environment Plan

Document No: A958677

Date: 22/12/2023

1. On 8 December 2023, I, [REDACTED], [REDACTED] delegate of the Chief Executive Officer of NOPSEMA decided, pursuant to regulation 10 of the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* (Cth) (**Environment Regulations**), to accept the WA-61-L and WA-62-L Subsea Infrastructure Installation Environment Plan (Document No: SA0006AH0000008, Revision 3, dated October 2023) (**EP**). The EP was submitted by Woodside Energy Scarborough Pty Ltd (ACN 650 177 227) (**titleholder**), to enable the titleholder to undertake subsea infrastructure installation activities within Commonwealth Petroleum Production Licences WA-61-L and WA-62-L (**activity**).
2. The reasons for my decision are set out below. All references to a regulation (**reg**) are to the Environment Regulations unless otherwise stated.

Legislative framework

3. The legislation relevant to my decision is set out in **Attachment B**.

Background

4. On 22 March 2023, the titleholder submitted the EP (Document No: SA0006AH0000008, Revision 0, dated March 2023) to NOPSEMA in accordance with reg 9.
5. On 29 March 2023, the EP (Document No: SA0006AH0000008, Revision 0, dated March 2023) was found to be incomplete for assessment as the EP did not address all the provisions of Division 2.3 (Contents of an environment plan) and that the content in the sensitive information part of the EP did not meet the requirements of regulation 9(8).
6. On 22 May 2023 the EP (Document No SA0006AH0000008, Revision 1, dated April 2023) was re-submitted to NOSPEMA in accordance with reg 9.
7. On 29 May 2023, the EP (Document No: SA0006AH0000008, Revision 1, dated April 2023) was found to be complete for assessment in accordance with reg 9AA and published by NOPSEMA on NOPSEMA's website in accordance with reg 9AB.
8. On 22 June 2022 and 23 November 2023, NOPSEMA issued two unable to make a decision notices advising that NOPSEMA was unable to make a decision on the EP within the normal 30-day assessment period due to the complexity of the activity described within the EP, pursuant to reg 10(1).
9. On 5 July 2023, NOPSEMA issued a not reasonably satisfied notice requiring the titleholder to modify and re-submit the EP, pursuant to reg 10. These notices identified areas where NOPSEMA considered the EP did not meet the criteria in reg 10A.
10. In addition, NOPSEMA made one request for further information during this timeframe, pursuant to reg 9A. The request for further information identified areas where further information was necessary about matters required by the regulations before a decision could be made against the reg 10A criteria.

11. In response to these requests, the titleholders resubmitted two EPs which incorporated additional information pursuant to reg 9A(3) and modifications pursuant to reg 10. The EP the subject of this decision was received on 27 October 2023, and is identified as Document No: SA0006AH0000008, Revision 3, dated October 2023.

Materials

The materials which NOPSEMA considered in making this decision are set out in **Attachment C**. Where relevant to the decision, the materials are identified in the reasons below.

Decision Overview

12. The issue before me was whether the EP should be accepted pursuant to reg 10 of the Environment Regulations. In making this decision, I have taken into account and accepted advice and recommendations from NOPSEMA's assessment team.
13. Prior to considering whether I was reasonably satisfied that the EP met the criteria in reg 10A, I considered whether the EP complied with Division 2.3, which sets out the matters which must be included in the EP.
14. I was satisfied that the EP contained the matters in Division 2.3. My reasons are set out at [19] – [38] below.
15. In accordance with reg 5G(2) of the Regulations, I must not accept an environment plan unless I am reasonably satisfied that the titleholder is compliant with subsection 571(2) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the **OPGGs Act**) in relation to the petroleum activity, and the compliance is in a form that is acceptable to NOPSEMA. On review of the titleholder's financial assurance declaration and confirmation forms, I was reasonably satisfied that the titleholders had demonstrated financial assurance in accordance with the requirements of reg 5G(2).
16. I then considered whether I was reasonably satisfied that the EP meets each of the criteria in reg 10A.
17. If I was reasonably satisfied that the Environment Plan met the criteria in reg 10A, I must accept it. However, if I was not reasonably satisfied that the Environment Plan met the criteria in reg 10A, I must:
- give the titleholder the opportunity to resubmit the Environment Plan; or
 - refuse to accept the Environment Plan; or
 - accept the Environment Plan in part for a particular stage of the activity; or
 - accept the Environment Plan subject to limitations or conditions applying to operations for the activity.
18. I considered that the criteria in reg 10A were all satisfied. My reasons are set out at [39] – [135] below. I am aware that another delegate expressed reasons in similar terms in relation to the Scarborough Drilling and Completions EP accepted on 1 December 2023, however the reasons below are my own, and any similarity is a product of the similar nature of the considerations.

Findings

Does the Environment Plan comply with Division 2.3?

19. Regulation 12 of the Environment Regulations requires that an EP must include the matters set out in regulations 13, 14, 15 and 16. As I was satisfied that the EP met regulations 13-16 (for the reasons set out individually below), I was satisfied that reg 12 was met and the EP complied with Division 2.3.

Environmental assessment: regulation 13

Regulation 13(1) - Description of the petroleum activity

20. Section 3 of the EP is titled 'Description of the Activity' and included the following information:

- a. the description of the activity, which is to install subsea infrastructure, including flowlines, mudmats, umbilicals, jumpers and suction piles for the floating production unit (FPU) mooring pre-lay. Additional activities include gravimetry preparation and baseline survey activities and infrastructure testing within the area covered by Commonwealth Petroleum Production Licences WA-61-L and WA-62-L. The activity also includes ROV operation, pre-installation, progress and post-installation surveys, a baseline gravimetry survey, flood, clean, gauge, and pressure and leak testing and inspection, monitoring, maintenance and repair (IMMR) activities;
- b. the location of the petroleum activity is clearly set out in the EP by high quality contextual maps containing the relevant petroleum production licence, operational areas (collectively referred to as Petroleum Activities Area - **PAA**); The Petroleum Activities Area (PAA) is located approximately 216 km from the nearest shoreline (North West Cape) and approximately 375 km west-northwest of Dampier. Water depths in the PAA range from approximately 900m to 970m;
- c. the activity will be undertaken using a spread of installation and survey vessels with supporting vessel used to re-supply and for other logistical and operational activities, with representative vessel specifications for each type of vessel provided in the EP (Section 3.7);
- d. information considered relevant for the consideration of environmental impacts and risks of the petroleum activity. Key aspects of the description included the following:
 - i. The petroleum activity has an estimated cumulative duration of 18 months (excluding IMMR activities), with activities occurring in multiple campaigns for completion within a three-year window. The earliest commencement date is estimated to be late 2023. When underway, activities will be 24 hours per day, seven days per week. Simultaneous operations (SIMOPS) may occur between activities within the PAA, with timing of some subsea installation, mooring and survey activities overlapping;
 - ii. general details of the amount, type and location of the subsea infrastructure and the conduct of a baseline gravimetric survey, which requires the installation of up to 265 concrete pads (Section 3.9);
 - iii. routine and non-routine emissions and discharges from the petroleum activity, including light emissions, acoustic emissions, disturbance to benthic habitats, atmospheric and greenhouse gas emissions, project vessel discharges; and
 - iv. the EP also evaluates unplanned chemical and hydrocarbon discharges, including a diesel spill in a vessel collision scenario.

21. Based on the findings above I was reasonably satisfied that the EP contained a comprehensive description of the petroleum activity that met the requirements of reg 13(1).

Regulation 13(2) and (3) - Description of the environment that may be affected

22. Regulations 13(2) and (3) requires the Environment Plan to describe the existing environment that may be affected by the activity including the particular relevant values and sensitivities (if any) of that environment. The Environment Plan addressed each of these matters in Section 4, Appendix C, Appendix G and Appendix I. In particular, the Environment Plan described and included the following information:

- a. a thorough description of the physical and biological environment, and details of the relevant values and sensitivities, that may be affected by the petroleum activity, including under emergency conditions;
- b. the description of the environment has been defined as the spatial boundary of the petroleum activity associated with gravimetry, subsea installation and mooring pre-lay activities, and also based on an extended Environment that May Be Affected (**EMBA**) which describes the largest spatial extent where unplanned events could have an environmental consequence on the surrounding environment. Consistent with NOPSEMA expectations, this is based on stochastic modelling of the credible worst-case spill scenario;
- c. that the activity or any part of the activity will not be undertaken in any part of a declared World Heritage Property or National Heritage Place, nor a declared *Ramsar* wetland within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*, as described in section 4.3 of the EP;
- d. values and sensitivities of the following Australian Marine Parks (**AMPs**) in the area that may be affected by the petroleum activity under emergency conditions have been identified as: Gascoyne Marine Park, Carnarvon Canyon Marine Park and Abrolhos Marine Park. The proposed activities do not overlap any of these AMPs;
- e. in identifying values and sensitivities of the relevant AMPs, the EP has had regard to the North-west Marine Parks Network Management Plan;
- f. values and sensitivities of the following key ecological features (**KEFs**) as defined by DCCEEW being in or in proximity to the area that may be affected by the petroleum activity have been identified as: Ancient coastline at 125 m depth contour; Canyons linking the Cuvier Abyssal Plain and the Cape Range Peninsula; Continental Slope Demersal Fish Communities; Exmouth Plateau; Western demersal slope and associated fish communities of the Central West Province; Wallaby Saddle;
- g. Commonwealth and Western Australian managed fisheries in the PAA and the area that may be affected by the petroleum activity have been identified as:
 - i. the Western Deepwater Trawl Fishery, Southern Bluefin Tuna Fishery, Western Skipjack Tuna Fishery, Southern Tuna and Billfish Fishery and Western Tuna and Billfish Fishery;
 - ii. the Pilbara Line Fishery, Pilbara Crab Managed Fishery, Mackerel Managed Fishery (Area 2 and 3), Marine Aquarium Managed Fishery, South West Coast Salmon Managed Fishery, West Coast Rock Lobster Fishery and Pearl Oyster Managed Fishery.
- h. the cultural features of environment relating to First Nations peoples in the area that may be affected by the petroleum activity have been identified and described in Section 4.9.1, including traditional fisheries and resources; sea country values and people and communities and heritage values. The description of this aspect of the environment has been informed by literature, including a desktop assessment of Sea Country values from publicly available sources, specific studies including ethnographic surveys and archaeological heritage assessments and consultation with First Nations groups and individuals. No Native Title claims or determinations, or ILUAs were identified within the EMBA; however, a number of Native Title claims or determinations, or ILUAs that are coastally adjacent to the EMBA were identified. In addition, no Indigenous archaeology was identified within the EMBA. An ethnographic survey of the Scarborough Project found no ethnographic sites or values within the EMBA. Sea Country values held by coastally adjacent First Nations groups have been described, where the values may occur within the EMBA (Table 4-19 and Table 4-20). Table 4-21

summarises these cultural features of the environment identified from the various sources and an assessment of potential overlap with the PAA and the EMBA.

- i. social and economic values relating to maritime archaeological heritage, tourism and recreation, commercial shipping, oil and gas production and defence activities have also been identified and described.

23. Based on the findings above, I was reasonably satisfied that the EP met the requirements in regulation 13(2) and (3).

Regulation 13(4) - Requirements

24. I noted that the EP provided a detailed table at Appendix B identifying various Commonwealth legislative requirements that apply to the activity. Various parts of the EP, in particular Section 1.10 (Description of relevant requirements) and Section 6 (Environmental risk assessment, performance outcomes, standards and measurement criteria) provide descriptions of the legislative requirements that apply to the activity and how they are relevant to the environmental management of the activity.

25. I was therefore reasonably satisfied that the EP met requirements of regulation 13(4).

Regulation 13(5) and (6) - Evaluation of environmental impacts and risks

26. Section 6 of the EP detailed the environmental impacts and risks, including those arising from potential emergency conditions whether resulting from accident or any other reason, for the petroleum activity. The details of the environmental impacts and risks associated with receptors such as soil and groundwater, marine sediment, water quality, air quality, ecosystems/ habitat, species and, socio-economic environment for;

- a. planned activities (routine and non-routine) such as:
 - i. routine light emissions: external lighting on installation vessels.
 - ii. routine atmospheric and greenhouse gas (**GHG**) emissions: emissions from installation vessels and helicopter operations;
 - iii. routine acoustic emissions: generation of noise installation vessels and positioning equipment;
 - iv. physical presence: interaction with other marine users; and disturbance to benthic habitat from subsea installation and ROV operations;
 - v. routine and non-routine discharges: installation vessels (discharges of sewage, grey water, putrescible waste, deck and bilge water, brine and cooling water);
- b. unplanned activities (accidents, incidents, emergency situations) such as:
 - i. hydrocarbon release from vessel collision;
 - ii. discharge: chemicals and hydrocarbons; bunkering; and hazardous and non-hazardous solid waste/equipment; and
 - iii. physical presence: seabed disturbance; accidental introduction and establishment of invasive marine pests; and collision with marine fauna.

27. The EP included an evaluation of all the impacts and risks, whether arising directly or indirectly, and including those arising from potential emergency conditions whether resulting from accident or any other reason, appropriate to the nature and scale of each impact or risk (Section 6 and Appendix D). The impact and risk analysis process are described in Section 2 and includes assigning a consequence rating (defined in Figure 2-2) for all impacts and risks and a likelihood rating for unplanned events, which together were

used to categorise planned and unplanned activities into a rating for the acceptability of the impact or risk. A description was provided in Table 2-1 about how the titleholders demonstrates that the impacts and risks will be managed to as low as reasonably practicable (**ALARP**). The outcome of the process for the impacts and risks identified in Table 6-3, with the impacts and risks generated by the activity being considered to be acceptable or broadly acceptable when taking into account the application of control measures and considering the extent, severity and duration of any planned or unplanned impacts to environmental receptors. The full evaluation of each individual impact and risk is provided in Section 6 of the EP.

28. The EP included details of the control measures that will be used to reduce the impacts and risks of the petroleum activity to ALARP and to an acceptable level (Section 6, and Appendix D). Control measures have been justified through evaluation considering additional, alternative or improved controls.
29. The evaluation addressed matters of national environmental significance (**MNES**) protected under the EPBC Act, including World Heritage properties, National Heritage properties, *Ramsar* wetlands, listed threatened species and communities, listed migratory species, Commonwealth marine areas, and the Great Barrier Reef Marine Park. The other MNES protected under the EPBC Act are not applicable to the proposed petroleum activity, including nuclear actions and water resources affected by coal seam gas development and large coal mining development.
30. The EP presented facts and evidence in support of the evaluations presented, which included, but is not limited to, the following in relation to Matters Protected under Part 3 of the EPBC Act:
 - a. the EP evaluates the impacts of underwater noise emissions associated with the petroleum activity, which are predominantly from installation vessels, and the positioning equipment. The EP references current, contemporary scientific literature and applicable modelling studies to inform the evaluation, as well as providing predictions of received levels of underwater noise in relation to biologically relevant thresholds;
 - b. a number of listed threatened and migratory cetacean species were identified as potentially occurring within the OA, however no BIAs for cetaceans were identified to overlap with the OA. The nearest BIA is the pygmy blue whale migration BIA, which is approximately 35 km from the OA. Relevant recovery plans and conservation advice, including the Conservation Management Plan for the Blue Whale, have been considered in the evaluation;
31. Based on the findings above, I was reasonably satisfied that the EP met the requirements of regulation 13(5) and (6).

Regulation 13(7) - Environmental Performance Outcomes and Standards

32. I considered the environmental performance outcomes (**EPOs**), environmental performance standards (**EPSs**) and measurement criteria provided in Section 6 of the EP and Appendix D and was satisfied that the:
 - a. EPOs have been set which define performance for the management of the environmental aspects of the petroleum activity to ensure that environmental impacts and risks will be of an acceptable level. The EP notes that the EPO's presented are consistent with the EPOs in the Scarborough Offshore Petroleum Project (Table 6-2). For example:
 - i. Undertake the Petroleum Activities Program in a manner that will not seriously disrupt the lifecycle (breeding, feeding, migration or resting behaviour) of an ecologically significant proportion of the population of a migratory species (EPO 5).

- ii. Undertake the Petroleum Activities Program in a manner that prevents a substantial adverse effect on a population of fishes, marine mammals, marine reptiles, or the spatial distribution of a population (EPO 6).
 - iii. No release of hydrocarbons to the marine environment due to a vessel collision associated with the Petroleum Activities Program (EPO 17).
 - iv. Undertake the Petroleum Activities Program in a manner which prevents a known or potential pest species (IMS) becoming established (EPO 23).
- b. EPSs have been set for control measures identified as being necessary to reduce the environmental impacts and risks of the petroleum activity to ALARP and acceptable levels. For example:
- i. GHG emission regulatory reporting undertaken as required (PS 5.2.1).
 - ii. Vessel operations planned, where practicable, to minimise fuel consumption and associated GHG/air emissions (PS 5.3.1).
 - iii. GHG emissions tracking process developed which facilitates identification of further reduction opportunities during installation / Petroleum Activities Program execution to understand and influence emission sensitivities (PS 5.4.1).
 - iv. Sightings of known or possible Pygmy Blue Whales (PBWs) and Humpback Whales communicated to other Scarborough Project vessels in the area (PS 3.5.1).
 - v. Trained vessel crew on Pipelay Vessel (PV), Light Construction Vessel (LCV) and Heavy Construction Vessel (HCV) observe and record cetacean presence/activity when vessels in the Operational Area (PS 3.4.1).
 - vi. When within 250 m of a whale shark vessels will not travel greater than 6 knots and vessels will not approach closer than 30 m to a whale shark (PS 3.2.1).
 - vii. When within 300 m of a turtle, vessels will not travel greater than 6 knots. (PS 3.3.1)
 - viii. Consideration of cultural values/new information, through the life of the EP, and the development of avoidance or mitigation strategies in collaboration with Traditional Custodians if impacts to cultural values are identified. Where avoidance is not possible, impact minimisation will be prioritised and demonstrated through a written options analysis/ALARP to ensure an acceptable level of impact. This will be documented through Woodside's Management of Change and Management of Knowledge processes (PS 14.3.1).
- c. measurement criteria (e.g. records of equipment being present, evidence of compliance with regulations, standards and procedures, evidence of notifications being sent to marine users) are provided that will allow the titleholder to determine whether each EPO and EPS is being met for the duration of the activity.

33. Based on the findings above, I was reasonably satisfied that the EP met the requirements of regulation 13(7).

Implementation strategy for the EP: regulation 14

34. In relation to the requirements in reg 14 regarding the implementation strategy, the EP includes:
- a. an implementation strategy for the activity in accordance with regulation 14 of the Environment Regulations (reg 14(1));
 - b. the timing for when the titleholder will report to NOPSEMA in relation to the titleholder's environmental performance for the activity, with the interval between reports not being more than

one year. Section 7.10.2.3 outlines the routine reporting obligations to NOPSEMA, including annual environmental performance reporting (reg 14(2));

- c. a description of the environmental management system (**EMS**) for the activity in Sections 1.9 and 7 of the EP, including specific measures to be used to ensure that, for the duration of the activity, the environmental impacts and risks of the activity continue to be identified and reduced to a level that is ALARP, control measures described in the EP are effective in reducing the environmental impacts and risks of the activity to ALARP and an acceptable level, and EPOs and EPSs set out in the EP are being met. The EP review process and management of change process are described in Section 7.7.4 and 7.8 respectively (reg 14(3));
- d. establishment of a clear chain of command, setting out the roles and responsibilities of personnel in relation to the implementation, management and review of the EP, including during emergencies or potential emergencies. Section 7.3.1.2 outlines the organisational structure for the petroleum activity and the roles and responsibilities of key project team members. The chain of command and roles and responsibilities of key personnel involved in spill preparation and response are defined in the Oil Spill Preparedness and Response Mitigation Assessment (Appendix D) (reg 14(4));
- e. measures to ensure that each employee or contractor working on, or in connection with, the activity is aware of their responsibilities in relation to the EP, including during emergencies or potential emergencies, and has the appropriate competencies and training). Section 7.6 and outlines the measures that are in place for ensuring employee and contractor competency, including the necessary awareness, training and induction requirements to fulfil their duties. Section 7.11 defines the emergency response training and minimum competency levels of personnel with responsibilities for emergency response, and defines the Source Control IMT structure and capability requirements (reg 14(5));
- f. provision for sufficient monitoring, recording, audit, management of non-conformance and review of the titleholder's environmental performance and the implementation strategy to ensure that the EPOs and EPSs in the EP are being met. In particular, Section 7.7 outline the process for inspections and audits, and management of non-conformances (reg 14(6));
- g. sufficient monitoring of, and maintaining a quantitative record of, emissions and discharges (whether occurring during normal operations or otherwise), such that the record can be used to assess whether the EPOs and EPSs in the EP are being met. In particular, Section 7.7.1 outlines the approach to monitoring and record keeping for emissions and discharges (reg 14(7));
- h. an oil pollution emergency plan (**OPEP**) with provision for the updating of the plan, made up of the following components: Woodside Oil Pollution Emergency Arrangements (Australia), Oil Pollution First Strike Plan (Appendix H) and Oil Spill Preparedness and Response Mitigation Assessment (Appendix D) (reg 14(8));
- i. the documents that comprise the OPEP define appropriate arrangements for responding to and monitoring oil pollution (Appendix D and Appendix H) and includes:
 - i. the control measures necessary for timely response to an emergency that results or may result in oil pollution (monitor and evaluate, source control for a vessel spill);
 - ii. the arrangements and capability that will be in place for the duration of the activity to ensure timely implementation of the control measures including arrangements of ongoing maintenance of response capability;

- iii. the arrangements and capability that will be in place for monitoring the effectiveness of the control measures and ensuring that the EPSs for the control measures are met (Woodside Environmental Team and oil spill response service providers); and
 - iv. the arrangements and capability in place for monitoring oil pollution to inform response activities (Woodside Environmental Team and OSMP service providers) (reg 14(8AA));
 - j. arrangements for testing the response arrangements in the OPEP that are appropriate to the response arrangements and to the nature and scale of the risk of oil pollution for the activity. (reg 14(8A));
 - k. the arrangements for testing the response arrangements, including a description of the objectives of testing (Section 7.11.7 and Appendix D), a proposed schedule of tests (Section 7.11.7), mechanisms to examine the effectiveness of response arrangements against the objectives of testing, and mechanisms to address recommendations arising from tests (reg 14(8B));
 - l. the proposed schedule of tests outlined in the description of the Hydrocarbon Spill Response Testing of Arrangements (Section 7.11.7) includes provision for:
 - i. testing the response arrangements when they are introduced;
 - ii. testing the response arrangements when they are significantly amended;
 - iii. testing the response arrangements not later than 12 months after the most recent test;
 - iv. if a new location for the activity is added to the EP after the response arrangements have been tested, and before the next test is conducted – testing the response arrangements in relation to the new location as soon as practicable after it is added to the plan; and
 - v. if a facility becomes operational after the response arrangements have been tested and before the next text is conducted – testing the response arrangements in relation to the facility when it becomes operational (regulation 14(8C));
 - m. the documents comprising the OPEP provide for monitoring of impacts to the environment from oil pollution and response activities that is appropriate to the nature and scale of the risk of the environmental impacts and risks for the activity and is sufficient to inform any remediation activities (Appendix D) (regulation 14(8D));
 - n. the arrangements in Appendix D and Appendix H are consistent with the national system for oil pollution preparedness and response (regulation 14(8E));
 - o. provision for appropriate ongoing consultation during the implementation of the petroleum activity with relevant authorities of the Commonwealth, a State or Territory and other relevant interested persons or organisations. In particular, Section 5.9 and Section 7.10.2.1 outlines the arrangements for ongoing consultation. The EP also provides a program of ongoing engagement with traditional custodians (Appendix J) (regulation 14(9)); and
- the implementation strategy complies with the Act, the regulations and any other environmental legislation applying to the activity (as outlined in Section 1.10 and Appendix B) (regulation 14(10)).

35. Based on the findings above, NOPSEMA is reasonably satisfied that the EP met the requirements of reg 14.

Details of titleholder and liaison person: regulation 15

36. I considered the EP (particularly Section 1.8) and found that it includes:

- a. details for the titleholder, including name, business address, contact details and Australian Company Number or ACN (within the meaning of the *Corporations Act 2001*) (reg 15(1));
- b. details for the titleholder's nominated liaison person including name, business address and contact details (reg 15(2)); and
- c. arrangements for notifying NOPSEMA of a change in titleholder, a change in the titleholder's nominated liaison person or a change in the contact details for either the titleholder or the liaison person in Section 1.8.3 (reg 15(3)).

37. Based on the findings above, I am reasonably satisfied that the EP met the requirements of reg 15.

Other information in the EP: regulation 16

38. I considered that the EP met reg 16 as it contains:

- a. the titleholder's "Environment and Biodiversity Policy", "Healthy and Safety Policy" and "Risk Management Policy" (Appendix A);
- b. the information required under reg 16(b), specifically a report on all consultations under regulation 11A of any relevant person by the titleholder in Section 5, Appendix F and the sensitive information part of the Environment Plan, including: a summary of each response made by a relevant person (see Appendix F, Table 1). The titleholder has provided a summary of responses received from relevant persons, such that relevant claims or objections can be adequately identified;
- c. an assessment of the merits of any objection or claim raised during relevant persons consultation (see Appendix F, Table 1). The titleholder has identified claims and objections raised by relevant persons and assessed the merit of each objection or claim about the adverse impact of the activity described in the EP. Where there was merit to relevant claims or objections regarding the adverse impact of the activity to which the EP relates, the titleholder has considered the claims against the content of the EP to ensure relevant management measures have been included (see Appendix F, Table 1). The consultation has progressed to resolve objections and claims made by relevant persons as far as reasonably practicable. The titleholder's assessment of merit and all responses to objections and claims were reasonable;
- d. a statement of the titleholder's response, or proposed response, if any, to each objection or claim (see Appendix F, Table 1). Where there has been a claim or objection identified, the titleholder has provided a response or proposed response to each objection or claim that has been raised;
- e. a copy of the full text of any response by a relevant person was included in the Sensitive Information Report; and
- f. details of any reportable incidents in relation to the proposed activity in Section 7.10 of the EP.

Should the Environment Plan be accepted?

39. Regulation 9A(4) requires that when making my decision as to whether the EP should be accepted, refused or accepted in part or with conditions under reg 10, I must consider the further information that the titleholders had provided pursuant to requests made by NOPSEMA for that information. The information that I considered was contained in the various re-submitted versions of the EP, which resulted in the final version (Revision 3).

40. Against this background (and having considered the materials at **Attachment C**), I made the following findings against each criterion for acceptance of the EP found in reg 10A.

The EP is appropriate to the nature and scale of the activity: regulation 10A(a)

41. I noted that Section 3 of the EP includes a description of the scope and bounds of the activity. In particular, the Environment Plan provides details of the proposed location, spatial extent, timeframe, and duration of the subsea installation activities (see above at [20]). The Environment Plan also comprehensively describes the amount and types of equipment and property that will be brought into the title areas and used to undertake the activity.
42. I considered that the Environment Plan contained a thorough description of the activity components with the greatest potential to generate impacts and risks to the environment throughout the activity duration. In particular, the Environment Plan thoroughly applies a logical process to identify and describe the activity components that may present sources of impact and/or risk to the environment and provides more detail on activity components with the greatest potential to generate impacts and risks to the environment.
43. I considered that Section 4 of the EP contained a thorough description of the environment, and appropriately considers relevant values and sensitivities (including matters protected under Part 3 of the EPBC Act). The description of the EMBA includes areas that may be affected by potential emergency conditions in the event of an oil pollution incident which is conservatively defined through stochastic modelling of the worst-case spill scenario. The level of detail included in the EP is appropriately scaled to the nature of the impacts and risks. A greater level of detail is included in the EP on the environment that may be affected by planned operations (OA), compared with the broader environment that may be exposed to low levels of hydrocarbon (in the unlikely event of a worst-case hydrocarbon release). Specifically, the EP includes:
- a. a logical process that is applied to identify and describe the matters protected under Part 3 of the EPBC Act that may be present within the EMBA. The EP utilises relevant information to adequately inform and support the descriptions, such as information available on The Department of Climate Change, Energy, Environment and Water (**DCCEEW**) website such as plans of management, threat abatement plans, threatened species recovery plans and marine bioregional plans (Section 4);
 - b. a description of the key physical, biological, social, economic values and sensitivities of the environment of the Commonwealth marine area. In particular, the EP applies a logical process to identify and describe the key physical, biological, social, economic, and cultural features, values and sensitivities of the environment that overlap with the EMBA. The EP utilises relevant references and information sources to adequately inform and support the descriptions, such as contemporary peer-reviewed scientific literature and other authoritative sources (Section 4); and
 - c. a description of First Nations cultural features and heritage values of the EMBA (Section 4.9.1). In particular, I noted that:
 - i. The installation activities will occur in water depths of between approximately 900-1000m. While parts of the EMBA include WA coastal and island shorelines and a seabed environment that is, and was previously, occupied by First Nations people, the deeper offshore waters where installation activities are occurring were not inhabited as they have always been submerged. Given this there is limited potential for the presence of tangible Underwater Cultural Heritage (**UCH**) as defined under the *Underwater Cultural Heritage Act 2018 (UCH Act)*;
 - ii. the description in the EP includes consideration of both tangible and intangible aspects and is supported by multiple sources of relevant and suitable information. For example, the EP includes details of onshore native title claims, determinations and Indigenous Land Use Agreements (**IULAs**) made under the *Native Title Act 1993*, cultural values related information published in

State and Commonwealth Marine Park Management Plans, information on the cultural features of marine ecosystems including the broader concept of “sea country”, and information on Indigenous archaeology in the offshore marine environment. The EP also provided opportunities through relevant persons consultation to inform the description of the potential for First Nations cultural features within the EMBA;

- iii. the description in the EP is supported by a desktop assessment of sea country values (Section 4.9.1.5.1) undertaken by the titleholder where it reviewed publicly available literature for any records of previously identified sea country values or cultural features that may occur within the OA or EMBA. A summary of sea country values or cultural features identified through the desktop assessment is presented in Table 4-19;
- iv. consultation with relevant persons has built on the knowledge of cultural features of the environment available through published research in the area. A summary of the values raised by First Nations relevant persons during consultation for this activity are presented in Table 4-20. Based on the desktop assessment and information obtained from First Nations relevant persons, the titleholder identified a number of cultural features and heritage values (Table 4-21) including, but not limited to:
 - A. songlines;
 - B. creation/ dreaming sites, sacred sites and ancestral beings;
 - C. cultural obligations to care for country;
 - D. knowledge of country/ customary law and transfer of knowledge;
 - E. connection to country, access to country;
 - F. kinship systems and totemic species, resource collection; and
 - G. marine ecosystems and marine species.
- v. the description in the EP is supplemented with results from an ethnographic heritage assessment undertaken for the Scarborough project development footprint which identified no ethnographic sites or values within the EMBA. I recognise that there is some uncertainty about the suitability of this ethnographic survey to provide a comprehensive understanding of ethnographic sites and values in the EMBA. This uncertainty exists given that it was undertaken by a limited group of traditional custodian representatives (i.e. Murujuga Aboriginal Corporation Circle of Elders) and for another purpose (i.e. the EP describes that the survey purpose as providing an understanding of the cultural heritage values associated with the submerged landscape the EP describes that the survey purpose included providing understanding of the cultural values within the coastal, nearshore and offshore proposed Scarborough trunkline and associated works areas). Nevertheless, I was reasonably satisfied that this uncertainty has been addressed in the EP through relevant persons consultation with a broader group of First Nations groups to inform the titleholder’s understanding of the potential for First Nations cultural heritage values within the EMBA, and the desktop assessment of sea country values and cultural features (Table 4-19). Specifically, where information relating to the identification of First Nations cultural heritage values was provided to the titleholder during relevant persons consultation it has been incorporated into the description in the EP (Section 4.9.1.5.3); and
- vi. during the assessment process, an expert report was obtained by NOPSEMA from Extent Heritage to assist NOPSEMA’s understanding and consideration of cultural features of the environment for the Scarborough Project, including the geographic area of the WA-61-L and WA-62-L Subsea

Installation activity. Extent Heritage concluded that there is no potential for any in-situ First Nations submerged terrestrial archaeological deposits within the subject area based on consideration of the location and water depths of the area relative to the Pleistocene coastal landscape, and that there are no known records of First Nations submerged archaeological deposits within those Commonwealth waters. Additionally, the report notes that the subject area is located well beyond the inundated coastal plain Aboriginal people would have lived on during the Pleistocene, and likely beyond the extent of viewlines from the Last Glacial Maximum (LGM) coast and beyond the extent that Aboriginal watercraft were likely to have travelled. The conclusions in the report are consistent with information presented in the EP that does not identify any known First Nations archaeological sites in the PAA or EMBA located in Commonwealth waters.

44. I also noted that a sufficiently robust method has been applied in the EP for the identification and evaluation of environmental impacts and risks of the petroleum activity (Section 2.2). The detail and rigour applied to the impact and risk assessments (Section 6) is commensurate to the magnitude of the impacts and risks related to the petroleum activity, and the level of analysis and evaluation is proportionate to the nature and scale of the environmental impacts and risks generated by the petroleum activity.
45. I considered that there is a clear demonstration in the Environment Plan that the evaluation of impacts and risks informed the selection of suitable control measures appropriate for the nature and scale of the activity to either reduce the consequence/severity or likelihood of environmental impacts and risks.
46. The EP includes sufficient information on the legislative requirements that are relevant to the activity (Section 1.10 and Appendix B). In addition, the environmental impact and risk assessments (Section 6) include a description of how the relevant requirements are met throughout the life of the activity.
47. Based on the findings above, I was reasonably satisfied that the EP met the requirements of reg 10A(a).

The EP demonstrates that the environmental impacts and risks of the activity will be reduced to as low as reasonably practicable: regulation 10A(b)

48. Having regard to the EP I considered that:
 - a. Section 2 of the EP describes the process applied to evaluate whether impacts and risks are reduced to ALARP. Section 6 of the EP presents a clear, systematic, defensible and reproducible process for the evaluation of all impacts and risks, which details the control measures to be implemented, including an evaluation of additional potential control measures, and justifies why control measures are either adopted or rejected (with reasoned conclusions) to demonstrate that the environmental impacts and risks of the activity will be reduced to ALARP. The evaluation of the adoption of control measures is based on environmental benefits and the consideration of the feasibility and cost/sacrifice of implementation.
 - b. I considered that the titleholder has applied the environmental risk assessment process (described in Section 2) appropriately for planned aspects of the activity, in particular for higher order hazards associated with the activity, such as physical disturbance and underwater noise emissions. For such higher order impacts and risks, I accepted that the exploration of alternative, additional or improved control measures had been evidenced, and that the control measures adopted demonstrate that environmental impacts will be reduced to ALARP.
 - c. Unplanned aspects of the activity are described in Section 6 of the EP, including accidental introduction and establishment of invasive marine species, unplanned discharge of hazard and non-hazardous waste, collision with marine fauna, unplanned seabed disturbance, and unplanned

hydrocarbon and chemical releases. These aspects are appropriately described and evaluated to give confidence that the control measures selected are appropriate and risks are reduced to ALARP.

- d. The evaluation of impacts and risks has informed the selection of suitable control measures to either reduce the consequence/severity or likelihood of impacts and risks. The control measures outlined in Section 6 of the EP are sufficiently detailed to demonstrate they will be effective in reducing the impacts and risks for the duration of the activity. The level of detail in the ALARP assessment is commensurate to the nature and scale of the potential impacts and risks. For higher order impacts and risks, the exploration of alternative, additional or improved control measures is evident by the titleholder. The EP has demonstrated, through reasoned and supported arguments that there are no other practical control measures that could reasonably be taken to reduce impacts and risks any further.
- e. The EP considers information gathered from the consultation process when demonstrating impacts and risks are or will be reduced to ALARP and each impact and risk evaluated in Section 6 of the EP (i.e., demonstration of ALARP tables) addresses the range of matters raised by relevant persons. For example, advice from DCCEEW relating to BIAs, feedback from the Department of Defence, requirements for notifications. I note that the Environment Plan evaluates and includes control measures that address impacts and risks on First Nations cultural features, including those that relate to the women's only gender-restricted material provided to NOPSEMA as part of the Environment Plan (see [106]). I am satisfied that impacts and risks described in the EP will be reduced to ALARP based on that evaluation and those control measures that will be implemented. In some instances, the titleholder adopted additional control measures or improved existing control measures in response to information obtained from relevant persons during consultation. For example, the titleholder adopted additional control measures to minimise impacts and risks to whale sharks (C 3.2) and marine turtles (C 3.3) and amended existing control measures that were specific to pygmy blue whales to extend the requirements to humpback whales (C 3.5 and C 3.6).
- f. The potential impacts from the activity to threatened and migratory whales (Matters of National Environmental Significance) was the focus of a topic assessment during the EP assessment process. I am satisfied that the EP adequately identifies and evaluates the potential impacts and risks from the activity to whales, by being informed by the likelihood of species presence, distribution and behaviour within the area that may be affected by underwater noise emissions and supported with peer-reviewed literature. In particular:
 - i. the evaluation of impacts and risks to threatened and migratory whales were informed by applying suitable control measures, including those set out within EPBC Regulations 2000 – Part 8 Division 8.1 Interacting with cetaceans;
 - ii. the EP considered, evaluated, and detailed all reasonable control measures that could reduce impacts to threatened and migratory whales to ALARP.
- g. I considered that the EP provided substantiated reasons why the adopted controls for protected species reduce the potential impacts to the point that any additional or alternative control measures are either not feasible, or their cost would be grossly disproportionate to the benefit that would be achieved. Control measures adopted include:
 - A. EPBC Regulations 2000– Part 8 Division 8.1 Interacting with cetaceans, including the following measures:
 - Project vessels will not travel greater than 6 knots within 300 m of a cetacean (caution zone) and not approach closer than 100 m from a whale.

- Project vessels will not approach closer than 50 m for a dolphin and/or 100 m for a whale (with the exception of animals bow riding).
 - If the cetacean shows signs of being disturbed, project vessels will immediately withdraw from the caution zone at a constant speed of less than 6 knots (C 3.1); and
- B. project vessels will not travel greater than 6 knots within 250 m of a whale shark and not allow the vessel to approach closer than 30 m of a whale shark (C 3.2); and
- C. vessels will not travel greater than 6 knots within 300 m of a turtle (caution zone). If the turtle shows signs of being disturbed, vessels will immediately withdraw from the caution zone at a constant speed of less than 6 knots (C 3.3); and
- D. Use trained vessel crew on project vessels (PV, LCV, HCV) to watch for cetaceans when vessels in the Operational Area and record presence / activity to the limit of visibility (C 3.4); and
- E. Communicate known or possible sightings of PBWs and Humpback Whales to other Scarborough Project vessels in the area (C 3.5); and
- F. For any sightings of known or possible PBWs or Humpback Whales (as per C 3.4):
- A dedicated watch will be maintained by a Marine Fauna Observer (MFO);
 - If the vessel (PV, LCV, HCV) is in transit, reduce speed to <6 knots; and
- No new support vessels will enter the Operational Area until the whale(s) is observed to move out of visible range from the project vessel (~3-5 km) or is not observed for a period of 30 mins (C 3.6); and
- G. The SIMOPs management plan (as per C 8.6) will consider the scheduling of and distances between Scarborough activities, to reduce the potential for injury to cetaceans (C 3.7). I noted that the analysis of impacts to threatened and migratory whales includes consideration of the objections and claims raised by relevant persons in relation to the management of impacts to whales to reduce these to ALARP.

49. Based on the findings above, I was reasonably satisfied that the EP met the requirements of reg 10A(b).

The EP demonstrates that the environmental impacts and risks of the activity will be of an acceptable level: regulation 10A(c)

50. I considered that the EP demonstrated that the environmental impacts and risks of the activity will be of an acceptable level, specifically I found that:
- a. Section 6 of the EP applies a clear, systematic, defensible, and reproducible process for demonstrating how environmental risks will be of an acceptable level. The process is commensurate with the nature and scale of the activity and the severity of its impacts and risks. The statements and conclusions drawn by the titleholder in the EP have been sufficiently supported with scientific literature. For example, the titleholder has applied more effort and rigour to evaluations where there is a higher degree of scientific uncertainty in predictions of impacts and risks and/or severity of potential consequence of impacts and risks;
 - b. Section 2.3.5 of the EP describes the process undertaken by the titleholder to determine acceptable levels of impact and risk for the petroleum activity, including through consideration of the principles of ESD, internal context, external context and other requirements. I considered that the impact and risk assessments provided in Section 6 of the EP demonstrate that the impacts and risks of the activity will be managed to an acceptable level; the EP demonstrates that the petroleum activity is

not likely to have a significant impact on MNES protected under the EPBC Act, including World Heritage properties, National Heritage properties, *Ramsar* wetlands, listed threatened species and communities, listed migratory species, Commonwealth marine areas, and the Great Barrier Reef Marine Park;

- c. the EP includes appropriate and accurate content to demonstrate that the proposed activity is not inconsistent with relevant key documents such as recovery plans, conservation advice and management plans, which are outlined in Section 6.9. In particular, an assessment of the activity against the relevant objectives and action areas in these plans is provided in Table 6-19, Table 6-20, and Table 6-21. For example, the noise evaluation at Table 6.7.3 demonstrated that the petroleum activity will be managed in a manner that is not inconsistent with the Conservation Management Plan for the Blue Whale; and
- d. in relation to planned aspects of the activity (Section 6), predictions have been made regarding impacts and risks to the environment that are considered suitably conservative and result in the inclusion of appropriate controls given the nature of the activity. For example, the environmental assessment includes consideration of aspects typical for subsea installation activities, such as light emissions, acoustic emissions, disturbance to benthic habitats, atmospheric and greenhouse gas emissions, project vessel marine discharges (i.e. sewage, grey water, putrescible waste, deck and bilge water and brine or cooling water).

51. Specifically in relation to MNES, which were the focus of a topic assessment, I considered that the EP demonstrated that this specific impact (such as injury or significant behavioural disturbance) will be of an acceptable level because:

- a. the PAA does not overlap with any BIAs for threatened and migratory whales. The closest BIA to the PAA is the pygmy blue whale migration BIA, located 35 km from the OA. No other BIAs for threatened and migratory whales are located within the EMBA. Therefore, I was satisfied that the EP was not inconsistent with the Commonwealth Conservation Management Plan for the Blue Whale 2015–2025 made under section 269A of the EPBC Act, Guidance on Key Terms within the Blue Whale Conservation Management Plan (2021), Blue Whale Conservation Management Plan – FAQs published by NOPSEMA, and Department of Sustainability, Environment, Water, Population and Communities, Marine Bioregional Plan for the North-west Marine Region;
- b. the noise evaluation in Section 6.7.3 of the EP has been informed by contemporary peer-reviewed literature and internationally accepted impact evaluation thresholds. The assessment team has considered the literature and impact evaluation thresholds in the EP and agreed that the information is application and appropriate;
- c. the acceptable level of impact for underwater noise impacts on whales is compared to the predicted level of impact, which is derived from comparing noise modelling studies with published studies on the distribution patterns of whales, to demonstrate that the environmental impacts of the activity will be managed to an acceptable level. In particular, the EP (Section 6.7.3) considered recent research on blue whale distribution patterns published in peer-reviewed literature that indicated the possibility of blue whale presence in and around the PAA;
- d. the EP evaluates the potential for permanent threshold shift (**PTS**) and temporary threshold shift (**TTS**) in hearing and behavioural disturbance to whales, due to cumulative anthropogenic noise emissions and measured against various operational scenarios;
- e. the EP addresses impacts and risks from underwater noise to whales, in particular pygmy blue whales. It details modelling which predicts that PTS and TTS will not be exceeded in the pygmy blue whale migration BIA, located 35 km from the OA. The EP explains that the predicted distances to PTS

and TTS from modelling are based upon exposure for 24-hours by a stationary receptor, which is conservative given it is not a realistic scenario based on the predicted movement patterns of whales. The EP concludes that PTS and TTS are not expected to occur for whales transiting through the PAA;

- f. the activity will not have an unacceptable level of impact on blue whale foraging because the PAA is not located in a designated pygmy blue whale foraging area (as defined in the Blue Whale Conservation Management Plan and Thums et al. 2022) and there is a low likelihood of foraging expected to occur in the area. In the event pygmy blue whales are sighted by appropriately trained crew, with the adoption of adaptive management controls (Section 6.7.3) impacts to biologically important behaviours of pygmy blue whales are unlikely;
- g. the EP demonstrates, based upon scientifically supported predictions and the location of the activity outside designated BIAs for pygmy blue whales, that the likelihood of encountering pygmy blue whales in the area within which received noise levels may result in PTS, TTS and behavioural disturbance is low. If greater than expected numbers of whales are observed in the area, the EP provides for adaptive management whereby the titleholder will initiate and follow its change and revision processes (which I consider in reg 10A(e) below);
- h. the EP describes a range of control measures to reduce underwater noise impacts to pygmy blue whales and other marine fauna to an acceptable level, including, but not limited to:
 - i. EPBC Regulations 2000 – Part 8 Division 8.1 Interacting with cetaceans, including the following measures:
 - A. project vessels will not travel greater than 6 knots within 300 m of a cetacean (caution zone) and not approach closer than 100 m from a whale;
 - B. project vessels will not approach closer than 50 m for a dolphin or and/or 100 m for a whale (with the exception of animals bow riding); and
 - C. if the cetacean shows signs of being disturbed, project vessels will immediately withdraw from the caution zone at a constant speed of less than 6 knots (C 3.1);
 - ii. Use trained vessel crew on project vessels (PV, LCV, HCV) to watch for cetaceans when vessels in the Operational Area and record presence / activity to the limit of visibility (C 3.4); and
 - iii. Communicate known or possible sightings of PBWs and Humpback Whales to other Scarborough Project vessels in the area (C 3.5); and
 - For any sightings of known or possible PBWs or Humpback Whales (as per C 3.4):
 - A dedicated watch will be maintained by a Marine Fauna Observer;
 - If the vessel (PV, LCV, HCV) is in transit, reduce speed to <6 knots; and
 - iv. No new support vessels will enter the Operational Area until the whale(s) is observed to move out of visible range from the project vessel (~3-5 km) or is not observed for a period of 30 mins (C 3.6); and
 - v. The SIMOPs management plan (as per C 8.6) will consider the scheduling of and distances between Scarborough activities, to reduce the potential for injury to cetaceans (C 3.7).
- i. the EP demonstrates that with the implementation of the proposed management measures, the petroleum activity is not expected to injure or result in biologically significant behavioural disturbance to blue whales and is not inconsistent with the Blue Whale Conservation Management Plan.

52. In relation to impacts and risks to cultural features of the environment, I considered that the EP (Section 6.10) demonstrated that this will be of an acceptable level because:
- i. the EP adequately evaluates the potential for the petroleum activity to directly or indirectly affect First Nations cultural features and heritage values, including, but not limited to:
 - A. songlines;
 - B. creation/ dreaming sites, sacred sites and ancestral beings;
 - C. cultural obligations to care for country;
 - D. knowledge of country/ customary law and transfer of knowledge;
 - E. connection to country, access to country;
 - F. kinship systems and totemic species, resource collection; and
 - G. marine ecosystems and marine species.
 - ii. the evaluation of impacts and risks to cultural features addresses matters raised through First Nations relevant persons consultation and includes an assessment of impacts and risks to cultural features of the environment. The outcomes of consultation with First Nations relevant persons has informed the control measures for reducing impacts and risks to acceptable levels. This included feedback provided from First Nations relevant persons in relation to the identification and management of cultural features and heritage values that may be present in the EMBA, such as marine turtles, whales and other marine fauna, including species that may be of cultural significance to First Nations people;
 - iii. the impact and risk evaluation outlines that:
 - A. the potential for songline connection within the EMBA have been provided by relevant persons, however no specific landforms typical of songlines (e.g., rocks, mountains, rivers, caves and hills) are anticipated to be impacted by the activity;
 - B. no specific creation and dreaming sites, sacred sites, and places associated with ancestral beings were identified within the EMBA. I noted that the PAA does not overlap with the Ancient Landscape;
 - C. no cultural activities to care for country and other traditional practices (knowledge of country/ customary law and transfer of knowledge) were identified within the EMBA;
 - D. no impacts to connection to country are anticipated. I noted that access to areas within the PAA may be limited where exclusion zones are established around vessels for safety purposes. I considered that the PAA is located approximately 215 km from the closest landfall (North West Cape) and no traditional activities within the PAA have been identified. I noted that access to country within the EMBA is not expected to be affected in the highly unlikely event of a marine diesel spill; and
 - E. impacts to marine fauna from the activity are not expected to impact on the totemic or kinship cultural connection.
 - iv. Appropriate control measures have been adopted to ensure that any impacts to First Nations cultural features, including those that relate to the women's only gender-restricted material provided to NOPSEMA as part of the Environment Plan (see [106]), will be managed to an acceptable level;

- v. the EP demonstrates that with the implementation of the proposed management measures, that planned activities are unlikely to result in an impact greater than negligible and unplanned activities are assessed to have a residual risk rating of moderate (or lower), and therefore the activity will be managed to acceptable levels.

53. In relation to unplanned aspects of the activity (Section 6), I was satisfied that the EP gives appropriate consideration to the accidental introduction and establishment of invasive marine species, unplanned discharge of hazard and non-hazardous waste, collision with marine fauna, unplanned seabed disturbance, and unplanned hydrocarbon and chemical releases. Uncertainty has been addressed in the evaluation of oil pollution incidents through the application of appropriately conservative stochastic modelling and recognition of assumptions made, and the provision for scalability of spill response to address spills of different magnitudes has been considered. The evaluation of risks posed by spill scenarios includes consideration of potential impacts to the receptors outlined in the description of the environment (Section 4) and informs the selection of appropriate spill response options.
54. The EP provides an appropriate evaluation of impacts and risks specific for the nature and location of the activity and relevant environmental receptors. The evaluation is commensurate to the level of impact or risk presented and provides justifiable conclusions that impacts and risks will be managed to an acceptable level (Section 6). The impact and risk evaluations demonstrate that the acceptable level will be met, and that the EPO will be achieved.
55. Information provided during relevant persons consultation is appropriately considered, evaluated, and incorporated into the EP. The titleholder has considered information gathered from the consultation process when demonstrating impacts and risks will be managed to an acceptable level. For example, impacts of light emissions from the activity was raised during consultation, which the titleholder considered in the demonstration of acceptability for this impact.
56. Based on the findings above, I was satisfied that the EP met the requirements of regulation 10A(c).

The EP provides for appropriate environmental performance outcomes, environmental performance standards, and measurement criteria: regulation 10A(d)

57. Section 6 of the EP contains the EPOs, EPSs and measurement criteria for impacts and risks of the petroleum activity.
58. The EP provides appropriate EPOs that I considered:
- a. are relevant to identified environmental impacts and risks for the petroleum activity;
 - b. read in conjunction with associated EPS, establish measurable levels for management of environmental aspects of the petroleum activity;
 - c. when read in conjunction with the relevant environmental impact/risk evaluation and adopted management measures, demonstrate that the environmental impacts and risks will be managed to an acceptable level; and
 - d. are considered consistent with the principles of ESD, considering items a-c above.
59. The EP provides appropriate EPSs that:
- a. are clearly linked to control measures for all impacts and risks; and
 - b. for each control measure, contain statements of performance which clarify how the control measure is to function in order to effectively reduce and mitigate impacts and risks; and
 - c. have clear measurement criteria that link to the EPS and will provide a record that the EPS has been met.

60. I considered that the EPOs, EPSs and measurement criteria are clearly linked and complementary of one another (presented in Section 6). For each environmental aspect, an EPO is set against which performance in protecting the environment will be managed, multiple EPS state the performance required of relevant control measures, and corresponding measurement criteria are identified to determine whether EPO/EPS are being met.
61. Appendix D (Oil Spill Preparedness and Response Strategy Selection and Evaluation), Section 5 contains the EPOs, EPSs and measurement criteria for response preparedness and implementation. These are provided for the proposed response strategies.
62. Based on the findings above, I was reasonably satisfied that the EP met the requirements of reg 10A(d).

The EP includes an appropriate implementation strategy and monitoring, recording and reporting arrangements: regulation 10A(e)

63. Regulation 10A(e) requires that I be satisfied that the implementation strategy, and the monitoring, recording and reporting arrangements were appropriate.
64. I noted that the implementation strategy outlined in Section 7 provides a range of systems, practices and processes (outlined in further detail below) which I was satisfied provided for all impacts and risks to continue to be managed to ALARP and acceptable levels for the duration of the activity.
65. I noted the titleholder has adopted a number of measures for the implementation strategy in response to consultation with relevant persons which included, but was not limited to:
- a. a Thalanyji Sea Country Management process (Section 7.4) to support the identification of cultural features of the Thalanyji people within the EMBA, through ongoing consultation with Buurabayji Thalanyji Aboriginal Corporation (**BTAC**); and
 - b. a 'Program of Ongoing Engagement with Traditional Custodians', which is provided at Appendix J of the EP. This Program includes specific ongoing consultation activities with First Nations relevant persons, including support of additional ethnographic studies, support for capacity building for ongoing consultation processes and the establishment of consultation protocols/frameworks.
 - c. an 'Unexpected Finds Procedure' (Section 7.5) in response to consultation with the Western Australian Museum to adaptively manage and respond to any for UCH as defined under the UCH Act.
66. I was satisfied that the management of change (**MOC**) process was adequately described in Section 7.8 and was appropriate because:
- a. management of changes relevant to the scope of the activity, will be managed in accordance with regulation 17;
 - b. changes will be assessed as per the environmental risk management methodology (outlined in Section 2.3) to determine the significance of any potential new environmental impacts or risks not provided for in the EP;
 - c. minor changes that do not trigger a requirement for a formal revision under reg 17, will be considered a 'minor revision' and tracked in an 'MOC Register';
 - d. any relevant new information on cultural values will be assessed using the MOC process;
 - e. Section 7.5 includes a detailed description of Woodside's 'Unexpected Finds Procedure'; and
 - f. Section 7.7.4.2 provides a reasonable description of the titleholders' learning and knowledge sharing processes.

67. Section 1.9 of the EP describes the titleholder's environmental management system, the Woodside Management System (presented in Figure 1-1 of the EP). I was satisfied that this was appropriate as the system provides a structured framework of documentation (compass and policies, expectations, processes and procedures, and guidelines) that set common expectations governing how all employees and contractors will work. I also noted the titleholder's commitment in Section 7.1 that the activity will be managed in accordance with the Woodside Management System and the Implementation Strategy in Section 7 of the EP.
68. I was satisfied that the EP (Section 7.6) included appropriate training and competency requirements relevant to the EP with all personnel on the project vessels required to be competent to perform assigned positions. Inductions are provided to all relevant personnel before mobilising to or on arrival at the activity location. The induction covers the HSE requirements and environmental information specific to the activity location. Relevant crew onboard the installation vessels will undertake pygmy blue whale observation training prior to commencing activities, as detailed in Section 7.6.4. Overall, appropriate commitment is made to training to ensure that all employees and contractors have suitable competencies.
69. The key roles and responsibilities of personnel involved in the implementation, management and review of the EP are appropriately outlined in Section 7.3.1.2. The roles and responsibilities for personnel involved in oil spill preparation and response are outlined in Oil Spill Preparedness and Response Mitigation Assessment (Appendix D) and the Woodside Oil Pollution Emergency Arrangements (Australia).
70. An appropriate OPEP, comprised of Woodside Oil Pollution Emergency Arrangements (Australia), Oil Spill Preparedness and Response Mitigation Assessment (Appendix D), and Oil Pollution First Strike Plan (Appendix H) has been provided that includes arrangements that are suitable, given the spill scenarios presented, and addresses each of the EP content requirements in regulation 14. Specifically:
- a. the Oil Spill Preparedness and Response Mitigation Assessment (Appendix D) details the oil pollution response control measures that will be used to reduce the impacts and risks of the activity to ALARP and an acceptable level, the arrangements for responding to and monitoring oil pollution to inform response activities, the arrangements for updating and testing the oil pollution response arrangements and control measures, and provides for the monitoring of impacts to the environment from oil pollution and response activities; and
 - b. the Oil Pollution First Strike Plan (Appendix H) provides the oil pollution arrangements and control measures in an operational deployment context.
71. I noted that monitoring, recording and reporting arrangements are adequately described in Section 7.8 and included routine internal and external reporting requirements and incident reporting arrangements. Monitoring and recording arrangements are described in Section 7.7. I considered that these arrangements were appropriate as these sections detailed that the information collected will:
- a. be based on the EPOs, controls, standards and measurement criteria in the EP; and
 - b. include environmental discharges reports that record volumes of planned and unplanned discharges downhole (in the well), to ocean and atmosphere.
72. The EP also provides for appropriate auditing, review and management of non-conformances of the titleholder's environmental performance and the implementation strategy in Section 7.7. Non-conformances are entered into an incident management system and assigned corrective actions that are monitored and closed out in a timely manner.

73. The EP provides for the implementation of ongoing consultation arrangements in Section 7.10, with planned notifications to relevant persons outlined in Section 7.10.2.1. I considered that these arrangements were appropriate because the titleholder:
- has committed to continue to update relevant persons via community forums and provide notification of significant changes to the activity;
 - provides a mechanism to subscribe to its website which can be utilised by relevant persons and those interested in the activity to remain up to date on the activity;
 - during the life of the EP, will assess any new stakeholders identified for relevancy as per the process outlined in Section 5.3 and assess new feedback received as per the process in Section 5.6; and
 - has prepared an 'Program of Ongoing Engagement with Traditional Custodians', which is provided at Appendix J of the EP. This Program includes specific ongoing consultation activities with First Nations relevant persons.
74. In light of the findings above, I considered the ongoing consultation arrangements described in the EP, as required by regulation 14(9), are appropriate.

75. Based on the findings above, I was satisfied that the EP met the requirements of reg 10A(e).

The EP does not involve the activity, or part of the activity, other than arrangement for environmental monitoring or for responding to an emergency, being undertaken in any part of a declared World Heritage Property within the meaning of the EPBC Act: regulation 10A(f)

76. As I stated above at [22] I was satisfied that the EP clearly describes the boundaries of the petroleum activity (Section 4), which demonstrates that no part of the activity will be undertaken in any part of a World Heritage Property within the meaning of the EPBC Act.

77. In those circumstances, I am satisfied that the EP met the requirements of reg 10A(f).

The EP demonstrates that the titleholder has carried out the consultations required by Division 2.2A, and the measures (if any) that are adopted because of the consultations are appropriate: regulation 10A(g)

78. Reg 10A(g) has two components which the Environment Plan must demonstrate:

- first, that consultation has occurred as per the requirements in Division 2.2A of the Regulations. Division 2.2A requires that the titleholder consults with each 'relevant person' as defined in reg 11A(1), and imposes certain requirements for how that consultation is to occur (as specified in reg 11A(2)-(4))(subparagraph (i)); and
- second, that the titleholder adopted, or proposed to adopt, appropriate measures in light of those consultations (subparagraph (ii))

79. The Act and Regulations do not define what constitutes 'consultation' for the purposes of reg 11A (and therefore satisfaction of reg 10A(g)(i)). However, there must first be identification of the relevant persons to be consulted, followed by consultation, the purpose of which is to ensure that the titleholder has ascertained, understood and addressed all the environmental impacts and risks that might arise from its proposed activity.

80. Whether the steps and actions taken by a titleholder amount to 'consultation' will vary depending upon the particular circumstances, and must reflect the characteristics of the relevant persons affected by the titleholder's proposed activity. However, consultation does not require *every* opportunity to be afforded. It also does not mean that, where those being consulted do not consider they have been properly

consulted, 'consultation' has not been carried out. Overall, I must be reasonably satisfied that consultation undertaken was appropriate and adapted to the nature of the relevant persons, and that reasonable opportunity to participate in the preparation of the EP was given.

81. NOPSEMA received a number of communications from relevant persons raising issues and/or expressing concerns with and objections to the Environment Plan. Those communications raised the same issues, concerns and objections as were raised during the consultation with the titleholder required by reg 11A, and are addressed in my reasons below regarding whether reg 10A(g) is met.
82. Section 5 of the EP provides descriptions of the consultation processes and the rationale used to determine who and how to consult with relevant persons, including the approach to provision of sufficient information to allow the relevant person to make an informed assessment of the possible consequences of the activity on the functions, interests or activities of the relevant person and to allow the relevant person a reasonable period for the consultation.
83. Section 5 of the EP describes a clear process for the identification and broad capture of relevant persons in accordance with regulation 11A(1) within all of the categories defined in subregs 11A(1)(a-l). I considered that the process was appropriate as it included:
 - a. reference to multiple sources of information, such as publicly available materials (such as management plans for AMPs, Department of Agriculture, Fisheries and Forestry (DAFF) Fisheries Status Reports), review of databases and registers (such as commercial fishing catch and effort data), published guidance (such as AFMA consultation guidance), consultation for Scarborough OPP, as well as advice from authorities and other relevant persons (such as advice from the Director of National Parks, and Native Title Representative Bodies).
 - b. consideration of published guidance developed by relevant persons detailing their functions, interests, or activities and how and when they wish to be consulted on activities. For example, the titleholder refers to guidance published by WAFIC in relation to consultation with commercial fishing licence holders in WA-managed fisheries where licence holders will only be affected by an unplanned event.
 - c. details and evidence of the steps taken by the titleholder to create awareness of the petroleum activity and the consultation process, to encourage potentially relevant persons that the titleholder may not be aware of, to make themselves known to the titleholder. For example, the titleholder published notices in national, state and local newspapers, hosted community reference group information sessions with the Karratha Community Liaison Group and the Exmouth Community Liaison Group, ran a geotargeted sponsored social media campaign to local communities and held community information sessions in Roebourne, Broome, Derby, Exmouth, Kununurra and Karratha, among others. In addition, the titleholder maintained consultation materials on its website, which included information regarding the purpose and approach to consultation, activity summaries and contact details. Links and/or a QR code for the website was included in published notices and social media campaigns.
 - d. details of how the titleholder will make an assessment to determine whether an individual or organisation who has self-identified as a relevant person, is or is not, considered to be a relevant person for the purposes of regulation 11A having regard to each person's stated functions, interests and activities.
84. I considered that the nature of the activity, description of the environment and the possible impacts and risks of the activity have been appropriately taken into account by the titleholder in determining whether the activity may be relevant to authorities, or determining whose functions, interests and activities may be affected. This is because:

- a. the titleholder has considered the nature and scale of the activity and all of the possible impacts and risks of the activity when determining who to consult with.
 - b. the titleholder considered all the known environmental values and sensitivities within the full extent of the environment that may be affected by the planned and unplanned impacts and risks of the activity when determining relevant persons. For example, the titleholder has conservatively applied the results of oil pollution risk modelling to the identification of relevant persons.
85. I also considered the content of Section 5, Appendix F, and the sensitive information part of the EP and that the titleholder's approach to the provision of sufficient information allowed the relevant persons to make informed assessments of the possible consequences of the activity on their functions, interests or activities and a reasonable period for the consultation was provided. I formed this view because:
- a. the EP includes a description of the approach to provision of sufficient information that takes into account the functions, interests or activities of relevant persons and the impacts and risks that may affect them. The titleholder has tailored the information to suit the needs of the different types of relevant persons and provided information in a form which I am satisfied is readily assessable and appropriate for the relevant person being consulted, including fact sheets, presentations, verbal briefings, graphics and videos;
 - b. the titleholder sufficiently informed relevant persons of the purpose of consultation, including advising relevant persons of the titleholder's obligations for consultation. This includes sharing the reasons for the consultation and providing a copy of NOPSEMA's 'Consultation on offshore petroleum environment plans' Brochure as part of consultation;
 - c. the information provided by relevant persons throughout the consultation process has assisted the titleholders to ascertain, understand and address all of the environmental impacts and risks that might arise from its proposed activity; and
 - d. Consultation with relevant persons commenced in September 2022, and has been ongoing until September 2023. Where further relevant persons have been identified, the titleholders have engaged with these relevant persons and consulted with them specifically in a variety of forms including meetings, presentations and through written communications. Comprehensive efforts were made by the titleholder to facilitate the consultation, and follow-up more recently identified relevant persons, so that they had all reasonable opportunities to engage in the consultation process (see Appendix F).
86. Having considered the detailed description of the consultation process in the EP, for reasons set out in [81]-[85] above, I consider that the approach adopted by the titleholder for identifying relevant persons was appropriate. I also considered that the titleholder has provided sufficient information which allowed for relevant persons to participate in informed consultation. Further, given the period of time afforded by the titleholder for consultation and the evidence of multiple engagements with relevant persons, including multiple opportunities for the relevant persons to provide information to the titleholder, that a reasonable period for the consultation has been given. My more detailed reasons are set out below.

Relevant Persons under Regulation 11A(1)(a)-(c)

87. Relevant persons under reg 11A(1)(a)-(c) are each Commonwealth, State or Northern Territory Department or agency to whom the activity in the EP may be relevant, in addition to the Department of each responsible State Minister or Northern Territory Minister.
88. Table 5-3 of the EP identified 18 Commonwealth and State Departments and agencies in the marine, environment and industry fields, and Section 5.3 provided further detail of the identification process, which I considered to be appropriate. The titleholders then made an assessment whether the activities to be carried out under the EP may be relevant to Commonwealth and State bodies.

Of the 18 Commonwealth and State bodies identified, 16 were assessed as being relevant persons. Reasons were provided why the two remaining bodies were not considered relevant persons. I agreed with and accepted the reasoning provided by the titleholder as to why these bodies were not consulted, namely, because the activity did not have the potential to impact the respective bodies' functions.

89. I noted that consultation with the relevant persons under reg 11A(1)(a)-(c) occurred, in accordance with GL1887 – Consultation with Commonwealth agencies with responsibilities in the marine area – January 2023, via email unless otherwise requested. Emails were sent to the relevant bodies on 21 September 2022, requesting responses by 21 October 2022. Emails were sent (with updated information) on 27 January 2023, requesting responses by 26 February 2023. Reminder emails were sent by the titleholder as this date approached.
90. I considered that sufficient information was provided to allow the relevant persons under reg 11A(1)(a)-(c) to make an informed assessment of the possible consequences of the activity on the functions, interests or activities of the relevant person. In particular, I noted that, in many of the cover emails for respective bodies, the titleholder provided a table of further information specific to the functions, interests or activities of the relevant person. For example, specific details of “Implications for Parks Australia interests” was sent to the Director of National Parks, and specific details of “Potential risks to commercial fishing and proposed mitigation measures” was sent to the Australian Fisheries Management Authority (AFMA) and commercial fishing licence holders, and various other examples contained in the EP (Appendix F and Sensitive Information Report).
91. I considered that a reasonable period was provided for the consultations. Relevant persons were initially provided with 30 days to respond, and consultations continued with relevant persons where requested.
92. I noted that the consultation emails sent to each relevant person contained the following statement in accordance with Regulation 11A(4):
- “Please let us know if your feedback for any of the activities proposed under an Environment Plan is sensitive and we will make this known to NOPSEMA upon submission of the Environment Plan to ensure this information remains confidential to NOPSEMA.”*
93. Finally, I noted that most relevant persons under reg 11A(1)(a)-(c) provided no feedback or objections to the activity in response to the consultation requests. Where a response was received, it was in the nature of feedback, as opposed to objections against the activity. Where feedback was received, the EP identified this and indicated what changes were made to the EP in response. For example, a large part of the feedback was that certain bodies should be notified of things or provided documents when they occur or become available. The EP contains the details of this reporting or commits to providing these documents. I considered that these measures were appropriate, and therefore reg 10A(g)(ii) was met.
94. Considering the matters at [87]-[93], I was reasonably satisfied that, in relation to relevant persons as defined by reg 11A(1)(a)-(c), the EP demonstrates that the titleholder has carried out the consultations required by Division 2.2A and the measures (if any) that the titleholder has adopted, or proposes to adopt, because of the consultations are appropriate, as required by reg 10A(g).

Relevant Persons under Regulation 11A(1)(d)

95. Relevant persons under reg 11A(1)(d) are considered to be ‘a person or organisation whose functions, interests or activities may be affected by the activities to be carried out under the environment plan, or the revision of the environment plan.’
96. I considered that the EP provided clear details of the processes that have been applied to identifying and determining who are relevant persons, as well as the processes undertaken for consulting with them. In

particular, the EP correctly states that the terms “functions”, “interests” and “activities” for the purpose of identifying relevant persons under reg 11A(1)(d) is to be interpreted and applied broadly by the titleholder in a manner consistent with the objects of the Regulations and the EPBC Act. The EP also utilised NOPSEMA’s ‘Consultation in the course of preparing an environment plan guideline’ (N-04750-GL2086) (**NOPSEMA’s consultation guideline**) in defining the terms.

97. The EP identified and considered the following broad categories within the scope of reg 11A(1)(d):
- a. Commercial fisheries (Commonwealth and State) and peak representative bodies, such as Western Australian Fishing Industry Council (**WAFIC**) and individual licence holders in Commonwealth-managed Western Deepwater Trawl Fishery;
 - b. Recreational marine users and peak representative bodies, such as Recfishwest and Marine Tourism WA;
 - c. Titleholders and Operators, such as Shell Australia and Western Gas;
 - d. Peak industry representative bodies, such as APPEA;
 - e. Traditional Custodians and nominated representative corporations, such as Ngarluma Aboriginal Corporation (**NAC**) and BTAC;
 - f. Native Title Representative Bodies (**NTRBs**), such as Yamatji Marlpa Aboriginal Corporation (**YMAC**);
 - g. Local government and recognised local community/reference/liaison groups or organisations, such as Exmouth Community Reference Group; and
 - h. Other non-government groups or organisations, such as Conservation Council of Western Australia and Greenpeace Australia Pacific (**GAP**).
98. The EP documented the titleholder’s consideration of a number of organisations that self-identified through the consultation process; however, the titleholder concluded that the functions, interests and activities were not affected by the activity (e.g., Friends of Australia Rock Art. Inc (**FARA**); Doctors for the Environment (**DEA**)).
99. I will first explain my conclusions on Traditional Custodians, nominated representative corporations and NTRBs, and then my conclusions on the other six ‘relevant persons’ categories identified at [97] above.

Traditional Custodians and nominated representative corporations and NTRBs

100. I considered that the titleholders’ methodology, as identified in the EP, allows for sufficiently broad capture of First Nations relevant persons through identifying which natural person(s) are to be approached and how the information will be given to allow each “relevant person” to assess the possible consequence of the proposed activities on their functions, interests or activities; so that consultation is not fixed to a rigid process (for example, a “simple (or quick) email”). I considered that this methodology was consistent with the purpose and intention behind reg 11A to ensure that the titleholders had ‘ascertained, understood and addressed all the environmental impacts and risks that might arise from its proposed activity’.

101. I also noted that the titleholders' methodology allows for First Nations people or groups with a connection to sea country to be identified and consulted as relevant persons as it is recognised that this may constitute an interest under regulation 11A(1)(d)1.
102. I was satisfied that the titleholders' process for relevant persons identification has provided for the broad capture of First Nations representative groups such as NTRBs and nominated representative corporations (e.g. Prescribed Body Corporates (PBCs)) by identifying and consulting with all relevant groups along the full extent of the coastline adjacent to the EMBA as relevant persons.
103. The consultation undertaken by the titleholders with Traditional Custodian relevant persons places an emphasis on directing consultation through First Nations representative groups (e.g. NTRBs and nominated representative corporations). Nevertheless, having regard to the information before me, I was satisfied that the titleholders made considerable efforts to ensure that individual relevant persons were identified or able to self-identify (by asking the NTRBs and PBCs to identify any persons and by wider media and public engagements to invite identification).
104. I was reasonably satisfied that the consultation process provided for broad capture of ascertainable First Nations persons and organisations who may have their functions, interests or activities affected because:
- a. the identification of relevant persons has been informed appropriately by the operational aspects of the activity and the associated impacts and risks, including the highly unlikely scenario of an oil pollution incident, which has been evaluated without implementation of mitigation strategies that would be implemented to reduce the volume, duration and extent of any oil pollution incident. The identification process accounted for cultural connections to sea country by identifying and consulting with all relevant groups along the full extent of the coastline adjacent to the EMBA as relevant persons;
 - b. process appropriately utilised the nominated representative corporations as the point of contact with Traditional Custodian groups and individuals and sought the guidance of these groups in conducting consultation. The nominated representative corporations were consulted in their own right and encouraged to advise of other Traditional Custodian groups or individuals with whom the titleholder should consult. For example, the titleholders asked the identified First Nations representative groups if they are aware of any individuals, who in accordance with Indigenous tradition, may have spiritual and cultural connections to the environment that may be affected by the activity that have not yet been afforded the opportunity to provide information that may inform the management of the activity, and no additional individuals were identified, although there were indications by one First Nations group that there 'may' be other relevant persons;
 - c. opportunities were provided over at least a nine-month period for First Nations groups or individuals to self-identify as relevant persons in response to widely advertised community information sessions and public facing notices or advertisements, such as (but not limited to) geo-targeted social media campaigns and information stands at community festivals, and all individuals that self-identified were consulted as relevant persons; and
 - d. While I recognised there were limitations to each of the individual enquiry methods, I was satisfied that the combination of approaches implemented, when considered holistically, reasonably provided

¹ - *Santos NA Barossa Pty Ltd v Tipakalippa* [2022] FCAFC 193; (2022) 296 FCR 124 [67]-[68].

for traditional owners with a connection to sea country, which may constitute an interest for the purposes of regulation 11A(1)(d), to be identified and consulted as a relevant person.

105. The First Nations people/groups that have been identified as relevant persons in the EP includes one NTRB (YMAC), 10 First Nations nominated representative corporations (i.e., various PBCs and Murujuga Aboriginal Corporation (MAC)) and two other First Nations groups that made themselves known to the titleholder as a relevant person (e.g. NYFL and Save our Songlines, including individual representatives). I have considered the titleholder's consultation with the NTRB and nominated representative corporation relevant persons at paragraph [106] and the titleholder's consultations with SOS and individual representatives including Ms Alec and Ms Cooper at paragraph [107].
106. In relation to the titleholders' consultations with NTRBs and nominated representative corporation relevant persons, I considered the summary of consultation provided at Table 1, Appendix F and the full text consultation records provided in the sensitive information part of the Environment Plan. I was reasonably satisfied that the consultations required by Division 2.2A have been carried out with each of these relevant persons because:
- a. the methods applied to consultation with these relevant persons were appropriate and reasonably adapted to the nature of the interests of these relevant persons. In particular:
 - i. the titleholders' approach to consultation with these relevant persons was flexible and adaptive, such that the consultation was undertaken, to the extent it was reasonably practicable, according to the relevant person's preferred method of engagement. For example, when these relevant persons expressed interest in engaging in the consultation process and provided feedback on their preferred method for the consultation, the titleholders accepted that feedback and adapted their approach to engaging with them based on their preferred method which typically resulted in the provision of additional verbal briefings and/or presentations supported with information in pictorial or graphic form;
 - ii. the titleholder adapted their approach to consultation in an appropriate manner to accommodate the provision of culturally restricted or sensitive information from relevant persons. Relevant persons were made aware that they could request the establishment of cultural protocols with the titleholders for the purposes of sharing information in a culturally appropriate and safe way if required, and of the NOPSEMA 'Draft policy for managing gender restricted information' (PL2098); and
 - iii. the purpose of the consultation and the opportunity being afforded was communicated by the titleholders to these relevant persons using clear, simple and directly expressed terms that were aligned with the intent of consultation under regulation 11A being to enable the titleholder to better understand environmental impacts and risks that relevant persons consider that the activity will cause or lead to, and to refine or change the measures it proposes to address those impacts and risks. I note that relevant persons were provided with the NOPSEMA brochure 'Consultation on offshore petroleum environment plans: Information for the community' and made aware that the invitation to participate in consultation provides an opportunity for relevant persons to inform the titleholders of, and share with them, the nature of cultural interests that they may have within the environment that may be affected by the activity. The nominated representative corporations were also made aware that the invitation to consult was inclusive of all of their members; and
 - iv. Further, I noted that the process considered availability and accessibility issues of relevant persons and made provision for travelling to regional locations to meet with relevant persons. For example, representatives of the titleholder travelled to regional locations to identify and meet

potential relevant persons at widely advertised community information sessions (at Roebourne on 5, 10, 19 and 24 May 2023, 22 June 2023 and 19 July 2023; Exmouth on 17 June 2023; Broome, Derby and Kununurra on 12, 13 and 15 June 2023 respectively; and Karratha on 28 and 29 June 2023) and information stands at community festivals (at Karratha on 5 and 6 August 2023; and Onslow on 18 August 2023) (Section 5.9).

- b. the titleholder has provided sufficient information to these relevant persons to allow them to make an informed assessment of the possible consequences of the activity on their functions, interests, or activities. In particular:
 - i. tailored information has been provided to these relevant persons in a readily accessible form and format. For example, simplified plain English consultation information sheets developed by Indigenous representatives for a Traditional Custodian audience were provided to the nominated representative corporations to share with their individual members, and the NTRB was provided with extracts of relevant sections of the Environment Plan containing First Nations cultural features and heritage values-related information. The titleholder also used clear, simple, and directly expressed terms within email correspondence to make it clear to the nominated representative corporations that the invitation to participate in consultation provides for an opportunity to inform the titleholder of the nature of cultural interests that the nominated representative corporation or their members may have within the EMBA. Nominated representative corporations were provided presentations of materials at nominated meetings, along with other materials, including responses to questions raised. This included providing First Nations relevant persons with a copy of the NOPSEMA 'Consultation on offshore environment plans' Brochure;
 - ii. additional information was provided to these relevant persons in an interactive manner, and consultation was adapted in response to the feedback received from relevant persons. The titleholder responded to requests for meetings and made itself available to meet to provide presentations and answer any questions. On a number of occasions this included provision of additional verbal briefings and/or presentations supported with information in pictorial or graphic form;
 - iii. where relevant persons raised queries, objections or claims regarding the adverse impacts of the activity during the consultation process, the full text consultation records in the Sensitive Information Part of the EP demonstrate that the titleholder provided responses to these queries, objections or claims. Further to this, when these relevant persons made reasonable requests for additional support to assist them with understanding the information provided so they could make an informed assessment of consequence, the titleholder met these requests. For example, the titleholder offered funding for the attendance of independent environmental scientists at consultation meetings and offered to financially support the provision of independent third-party advice;
 - iv. accurate and comprehensive information was provided to these relevant persons about the activity that was relevant and necessary to allow for an informed assessment. For example, the consultation details within the Environment Plan (including the full text records in the sensitive information part) demonstrate that the information that was provided to these relevant persons included clear details regarding the nature of the activity (e.g. location, timing, types of equipment etc.), the planned and unplanned environmental impacts and risks associated with the activity, the extent of the environment that may be affected by all environmental impacts and risks of the activity, the environmental values and sensitivities known to occur within the environment that may be affected by the activity, and the control measures that the titleholders'

are proposing to implement to manage environmental impacts and risks to ALARP and acceptable levels.

- c. the titleholders' have allowed a reasonable period for the consultation with these relevant persons. In particular:
- i. consultation occurred with one NTRB (YMAC from July 2022) and with the nominated representative corporations over a period of approximately nine months (i.e. since January 2023);
 - ii. within that consultation period, the Environment Plan demonstrates that a substantial amount of effort was applied by the titleholders to afford opportunities to these relevant persons to share information and engage in two-way dialogue for the purposes of consultation under regulation 11A. There has been an iterative process of information provision and various opportunities to provide feedback in writing or verbally at meetings. Where relevant persons were not responsive during the consultation process, the Environment Plan demonstrates that the titleholders made reasonable efforts to continue to engage with them to understand how their functions, interests or activities may be affected. In particular, consultation records in the Environment Plan (including the sensitive information part), show that the titleholders attempted to follow up with these relevant persons on multiple occasions, using multiple methods (e.g. telephone calls, emails and/or face to face meeting attempts) and over a reasonable timeframe (e.g. multiple months); and
 - iii. the Environment Plan also demonstrates that these relevant persons had numerous opportunities to identify First Nations cultural features and heritage values in the environment that may be affected by the activity and provide feedback on the proposed approach to managing the activity so that potential environmental impacts and risks on these features and values will be reduced to ALARP and acceptable levels. The consultation details within the Environment Plan (including the full text records in the sensitive information part) satisfy me that genuine attempts were made by the titleholders to understand the First Nations cultural features and heritage values identified by these relevant persons in the environment that may be affected by the activity. All First Nations cultural features and heritage values identified by these relevant persons have been appropriately incorporated into the Environment Plan to demonstrate how potential environmental impacts and risks on these features and values will be reduced to ALARP and acceptable levels (refer to Tables 4-20 and 4-21, section 4.9 and section 6.10 of the Environment Plan). Where these relevant persons expressed interest in a particular environmental value such as (but not limited to) whales, the titleholders provided clear details about how they were proposing to manage the activity's environmental impacts and risks on those values and sought feedback from the relevant persons that resulted in the modification of some existing control measures and some additional control measures being adopted (refer to Table 1, Appendix F of the Environment Plan).

107. In relation to the titleholder's consultations with Save Our Songlines and individual representatives (Ms Alec and Ms Cooper), I considered the summary of consultation provided at Table 1, Appendix F and the full text of consultation records provided in the Sensitive Information part of the EP. I was reasonably satisfied that the consultations required by Division 2.2A has been carried out with these relevant persons because:

- a. the methods applied to consultation with these relevant persons were appropriate and reasonably adapted. In particular:
- i. the titleholder's approach to consultation with these relevant persons was undertaken according to their preferred method of engagement as far as reasonably practicable. For example, the

titleholders' accommodated reasonable requests to meet with these relevant persons at their preferred location which included (but was not limited to) travelling to regional locations and attending a meeting on country at Hearson's Cove at the Burrup Peninsula on 14 March 2023. Following a request that the titleholders communicate with SOS and individual representatives through the Environmental Defenders Office, the titleholders did so. The meetings had agreed protocols, including in relation to gender restricted and sensitive information. I noted that there was a request made by the relevant persons for a meeting at Rosemary Island that was unable to be met by the titleholders. I have considered this matter further at [108a], however am satisfied that, despite this request being unable to be met, the approach to consultation adopted by the titleholders facilitated consultation as required by reg 11A;

- ii. the titleholders agreed to and conducted the consultation in accordance with the cultural protocols requested by these relevant persons. Only female representatives attended consultation meetings with these relevant persons and gender-restricted information was managed to ensure that it was only received by and visible to female representatives of the titleholders; and
 - iii. the purpose of the consultation and the opportunity being afforded was communicated to these relevant persons in a way which satisfies me that the relevant persons had an understanding of the purpose of the consultation and the role which they would have in the two-way dialogue. I noted that on 19 July 2023 and 3 August 2023, these relevant persons were provided with the NOPSEMA brochure 'Consultation on offshore petroleum environment plans: Information for the community'.
- b. the titleholders have provided sufficient information to these relevant persons to allow them to make an informed assessment of possible consequences of the activity on their functions, interests or activities. In particular:
- i. tailored information has been provided to these relevant persons in a readily accessible form and format. These relevant persons were provided with activity specific consultation information sheets on 23 September 2022 and 2 December 2022. Information regarding the activity was delivered in verbal format (often supported with PowerPoint presentations that contained various pictorials and graphics) during numerous meetings that were attended by these relevant persons including on country on 14 March 2023, online on 25 July 2023, and in person on 12 September 2023 and 4 October 2023;
 - ii. additional information was provided to these relevant persons in an iterative manner in response to all reasonable requests made during the consultation. When these relevant persons raised queries, objections or claims regarding the activity during the consultation process, the full text consultation records in the sensitive information part of the Environment Plan demonstrate that the titleholders provided responses to the queries, objections or claims. I noted that there were some cases where the titleholders did not provide all of the information that was requested during the consultation process (e.g. heritage survey reports or that are the intellectual property of other Traditional Custodians). I have addressed this concern below at [108] and why I did not consider that this meant that sufficient information had not been provided. I was therefore reasonably satisfied that the titleholders' provided sufficient information for the purposes of consultation and made every effort to meet the relevant persons' requests for additional information; and
 - iii. accurate and comprehensive information was provided to these relevant persons about the activity that was relevant and necessary for allowing an informed assessment. The consultation

details within the Environment Plan (including the full text records in the sensitive information part) demonstrate that the information that was provided to these relevant persons included clear details regarding the nature of the activity (e.g. location, timing, types of equipment etc.), the planned and unplanned environmental impacts and risks associated with the activity, the extent of the environment that may be affected by all environmental impacts and risks of the activity, the environmental values and sensitivities known to occur within the environment that may be affected by the activity, and the control measures that the titleholders' are proposing to implement to manage environmental impacts and risks to ALARP and acceptable levels. I noted that, during meetings, these relevant persons asked targeted and specific questions about impacts and risks from the activity, and how they would be managed.

c. the titleholders have allowed a reasonable period for the consultation with these relevant persons. In particular:

- i. consultation has occurred with these relevant persons over a period of more than 12 months;
- ii. I considered that the titleholders afforded many opportunities for these relevant persons to share information and engage in two-way dialogue. The titleholders and the relevant persons exchanged a high volume of emails, letters and telephone calls regarding consultation for the activity. The titleholders made multiple offers and attempts to meet with these relevant persons over a period of more than six months until the first meeting took place in March 2023. In total, there were four meetings that took place between the titleholders and these relevant persons, and the Environmental Defenders Office were present during these meetings. During these meetings, the activity was discussed in detail and the relevant persons were encouraged to share with the titleholder any concerns that they had in relation to how the activity may affect their functions, interests or activities; and
- iii. the Environment Plan demonstrates that these relevant persons were afforded a number of opportunities to identify, and did identify, First Nations cultural features and heritage values in the environment that may be affected by the activity and provide feedback on the proposed approach to managing the activity so that potential environmental impacts and risks on these features and values will be reduced to ALARP and acceptable levels. I considered that the titleholders took a precautionary approach and, where any potential impact, risk or concern was raised, in a meeting or correspondence, the titleholder identified these, made genuine efforts to understand them and then addressed them in the EP, including whether any additional control measures were required to reduce impacts and risks to ALARP and acceptable levels (refer to Tables 4-20 and 4-21 in section 4.9 and section 6.10 of the Environment Plan). For example, these relevant persons expressed interest in a particular environmental value such as (but not limited to) whales and the titleholders provided clear details about how they were proposing to manage the activity and sought feedback from the relevant persons during consultation. As a result of that two-way dialogue, the titleholders modified some existing control measures and some additional control measures were adopted (refer to Table 1, Appendix F of the Environment Plan).

108. I was aware that First Nations relevant persons raised feedback or concerns regarding the adequacy of the consultation process, and why they considered that consultation had not been completed. Whether or not a relevant person agrees that they have been adequately consulted is not determinative of whether I am satisfied regulation 10A(g) is met. I need to consider all the facts and circumstances of the consultation. My consideration of the feedback and concerns regarding the adequacy of the consultation was as follows:

- a. some First Nations relevant persons raised concerns about the information provided being too technical, sophisticated and lengthy or not suitable for a Traditional Custodian audience. Having considered the information that was provided, I found that the titleholder had provided these First Nations relevant persons with tailored information in a readily accessible form and format such as plain English consultation information sheets developed by Indigenous representatives for a Traditional Custodian audience. I also found that the titleholders provided opportunities for these relevant persons to receive additional support with facilitating their understanding of the information provided to them, such as by funding the attendance of independent environmental scientists at consultation meetings, offering to financially support the provision of independent third-party advice (this was not taken up by any of these relevant persons), and making relevant project personnel and subject matter experts available to attend consultation meetings to assist with explaining information in further detail and answering any questions. I was satisfied that the way the information was presented, and the opportunities provided to clarify and explain the activity, were suitable and appropriate;
- b. some First Nations relevant persons raised concerns with the timeframe for consultation not being reasonable. The titleholder commenced the consultation process from September 2022 for some Traditional Custodian groups and no later than February 2023 for all other First Nations relevant persons. Since that time, there have been ongoing opportunities provided by the titleholders to First Nations relevant persons to identify themselves and provide information to the titleholders. I found that the concerns about the timeframes were raised by the relevant persons late in the consultation process after many months of engagement by the titleholders, including an iterative process of information provision and various opportunities to provide feedback in writing or verbally at meetings. I also noted that the shortest period for consultation (from when the First Nations relevant person was contacted and an offer to meet made until the submission of the EP) was nine months;
- c. some First Nations relevant persons raised concerns about their lack of capacity to engage in the consultation process in a meaningful way. This included requests for consultation protocols/agreements by some groups (e.g. NTGAC, Yinggarda Aboriginal Corporation (YAC) and NYFL). The titleholders agreed to progress these agreements, though I note that none of the agreements were finalised at the time of Environment Plan submission. Whilst the agreements were not yet finalised, the titleholders nevertheless facilitated meetings and discussions with these groups to enable them to identify and address any rights, functions or interests which may be affected by the activity. For example, the EP contains evidence that these relevant persons were informed that the titleholder can provide various forms of assistance to support participation in consultation (which was not taken up by all of these relevant persons), and that the titleholders provided relevant persons with various forms of additional assistance in response to reasonable requests (e.g. by covering the costs associated with meeting sitting fees, travelling to the desired meeting locations of the relevant persons, funding the attendance of independent environmental scientists at consultation meetings, and offering to financially support the provision of independent third-party advice which was not taken up by any relevant persons);
- d. some First Nations relevant persons stated that there may be other First Nations people with cultural heritage values in the environment that may be affected by the activity that had not had an opportunity to participate in consultation. I found these statements to be too general for me to place any weight on them. It was not stated how these relevant persons had identified other possible relevant persons, nor how the titleholders might to identify and consult with them. I was reasonably satisfied that the titleholders had adopted a methodology of identifying relevant persons which enabled the broad identification of First Nations relevant persons (see paragraphs 100 to 105), and

that all First Nations relevant persons who could be ascertained were identified, or could have self-identified, and were consulted by the titleholders;

- e. a nominated representative corporation (i.e. BTAC) informed the titleholders that they have cultural values including sea country interests in the environment that may be affected by the activity but that BTAC has not yet developed these values into a format that can be articulated beyond their own culture. BTAC requested support from the titleholders to define and articulate its values in a manner that could be more clearly understood by the offshore sector, government and the community. I noted that the titleholders agreed to provide support for this including offering to fund an ethnographic survey and requesting advice on a scope of work for the ethnographic survey in July 2023, and offering financial support for independent environmental management technical advice and anthropological technical advice in March 2023 that was not taken up by BTAC at the time that the Environment Plan was submitted for assessment in November 2023. In response to consultation with the titleholder, BTAC agreed that, subject to formalising an arrangement with Woodside for resources and technical support, that information on sea country could be provided by BTAC on an ongoing basis, that any new information will be managed via adaptive management. Woodside and BTAC entered into a cost agreement to facilitate this arrangement in September 2023. Whilst the sea country interests and cultural values have not been articulated by BTAC at this time, the titleholders have identified that the activity may impact upon Thalanyji Sea Country, and have included control measures in the Environment Plan to continue to gather information and reduce impacts and risks. I also note that BTAC understood the nature of the activity and was able to make claims about management of risks. For example, in their letter dated 20 February 2023, BTAC proposed that emergency response capabilities be locally provided, and rangers be employed. Given these reasons, I was satisfied that sufficient information and reasonable time had been provided to BTAC to share any information it considered necessary for informing the management of impacts and risk on their interests, and that the measures that the titleholder has adopted, and proposed to be adopted in the agreement between the parties, were appropriate;
- f. Claims were raised by SoS, and individual representatives, that consultation that had occurred to date was for and only in relation to the Scarborough 4D Marine Seismic Survey EPs and had not been undertaken on the activities in the EP. However, records in the EP show that information about the activity was provided on 23 September 2022 and 2 December 2022 and during meetings on 14 March 2023, 25 July 2023 and 12 September 2023, including subsequent follow up correspondence. During these meetings, questions about the activity were asked by SoS and individual representatives and claims about the effects on their interests were shared with the titleholder. For example, questions were asked about the type of subsea infrastructure being installed, how long subsea infrastructure will remain on the seafloor and its removal and concerns were raised about the amount of infrastructure being installed a on 4 October 2023. On this basis and for the reasons set out above in [109] and [110], I am satisfied that the EP demonstrates that 11A consultation with SoS and representatives has occurred for the activities in the EP.
- g. the consultation records show that Ms Cooper requested a meeting at Rosemary Island in order to share further information in a culturally safe way. Although the titleholders declined a meeting at this location, I considered that the reasons for doing so (cultural sensitivities expressed by others and the safety of travellers) were reasonable. The titleholders offered a range of alternative locations for the meeting, including locations where Ms Cooper had previously requested meetings to share information, and also other alternative means by which Ms Cooper could share her information (e.g. Ms Cooper travelling to the island and recording her stories, the titleholders remaining offshore whilst Ms Cooper told her stories onshore, or circumnavigating around the island whilst Ms Cooper told her stories from the vessel). I note Ms Cooper declined to share the further information at the

alternative meeting locations proposed by the titleholders and that none of the alternative means for MS Cooper to share the further information were agreed by the titleholder and Ms Cooper (Table 1, Appendix F). I acknowledge that Ms Cooper felt disrespected that she could not provide information from Rosemary Island, however I do not consider that the titleholders refusal to travel to Rosemary Island, where many alternatives were offered, means that the obligation in reg 11A has not been discharged;

- h. as noted above, on some occasions, the titleholders did not provide information that was requested during the consultation process (largely being documentary information such as reports and studies). I considered that the titleholders had provided sufficient information for the relevant persons to make an informed assessment. Where additional information was requested, it was additional information to that which I already consider having been sufficient. Further, where the titleholder did not provide information, I considered that there were sound reasons for not doing so. For example, the titleholders did not provide heritage survey reports that were requested by some SoS, including Ms Cooper, because the reports were the property of other Traditional Custodians and the titleholders did not have permission to share them. Instead, the titleholders provided the outcomes of these surveys (where possible) or offered alternatives to obtain the information (such as indicating that Ms Cooper may be able to request a copy from the First nations group to whom it relates).

109. I note that a request was made by Ms Cooper to meet with NOPSEMA representatives at Rosemary Island. NOPSEMA declined this invitation. The legislative regime requires titleholders to consult with relevant persons and address the appropriateness of the measures it proposes to adopt in response to the consultation in the EP. The sharing of information directly with NOPSEMA would not accord with regulation 11A.

110. For the reasons given above, I found that consultation as required by reg 11A(2) and reg 11A(3) with Traditional Custodians (individuals and/or groups/entities), nominated representative corporations and NTRBs had been undertaken. I acknowledge that some relevant persons may have a different view. However, I am satisfied on the information before me that a reasonable opportunity has been afforded to relevant persons to be consulted on the activity and that evidence of this was included within the Environment Plan.

111. I note that there is evidence in the consultation records that the titleholders have advised First Nations relevant persons that they may request that particular information they provide is not published in accordance with regulation 11A(4) and it is evident that these requests have been addressed by the significant volume of sensitive material that was not to be published with the EP.

112. I was, accordingly, reasonably satisfied that reg 10A(g)(i) was met.

113. Having found that reg 10A(g)(i) was satisfied, I then considered whether the titleholders adopted, or proposed to adopt, appropriate measures in light of those consultations. I was reasonable satisfied that the measures adopted by the titleholder as a result of the consultations were appropriate for the following reasons:

- a. The EP includes a summary of any feedback, objections or claims raised by First Nations relevant persons in Table 1 of Appendix F, along with Woodside's assessment of merits of any feedback, objections or claims and its response, and corresponding further measures.
- b. The Environment Plan demonstrates the titleholder has considered any feedback provided from First Nations relevant persons regarding the proposed approach to management of the environmental impacts and risks of the activity relating to the protection of cultural features of the environment.

- c. The titleholder has adopted a range of control measures in response to the consultation with First Nations relevant persons to ensure that the activity's impacts and risks to cultural features of the environment will be of an acceptable level and reduced to ALARP. For example,
 - i. the titleholder modified a number of adaptive noise management controls in section 6.7.3 relating to pygmy blue whales to also include humpback whales given its importance as a totemic species to some First Nations groups, and
 - ii. the establishment of a Heritage Management Committee(s) to consider new cultural information and provide recommendations on lowering the risk of impacts to ALARP, with the committee including representatives from First Nations groups, relevant experts and the titleholder.
 - d. The titleholder has adopted further measures as a result of the consultations with First Nations relevant persons. In particular:
 - i. the Thalanyji Sea Country Management process (Section 7.4) to identify cultural features of the Thalanyji people within the EMBA through ongoing consultation with BTAC.
 - ii. Support of additional ethnographic studies and efforts to define sea country values (e.g., MAC and BTAC), along with appropriate measures for managing new information such as that which may be generated through further studies or ethnographic work undertaken in the region.
 - iii. a proposed Program of Ongoing Engagement with Traditional Custodians (Appendix J) which sets out the titleholders' commitment to ongoing engagement and support of Traditional Custodians' capacity to care for and manage Country, including Sea Country. This measure was adopted to support the capacity and capability of nominated representative corporations with their participation in ongoing consultation so that potential impacts and risks on cultural features and heritage values can continue to be managed to ALARP and acceptable levels during the life of the activity;
 - iv. Establishing consultation protocols/frameworks with First Nations groups (where the group has requested it), for future EP and ongoing consultation processes (Appendix J).
114. I note that Ms Cooper met with female representatives of the titleholders on 12 September 2023. The information shared at this meeting was recorded in a transcript and contained gender-restricted material (women only). The transcript was provided to NOPSEMA as part of the Environment Plan, and communicated and stored in a way that was only accessible to female staff. I reviewed this women's only gender-restricted material and after reviewing the records of consultation with Ms Cooper within the Environment Plan, determined that the Environment Plan already contains the information about cultural and heritage features of the environment that are explained within the gender-restricted material. I am therefore satisfied that the cultural features raised by Ms Cooper during that meeting on 12 September 2023 have been identified in the Environment Plan (refer to Table 4-26 in Section 4.9.1 of the Environment Plan) and addressed in the evaluation of impacts and risks with appropriate measures adopted to demonstrate that the impacts and risks will be reduced to ALARP and acceptable levels (section 6.10).
115. On the basis outlined above, I was reasonably satisfied that the measures adopted by the titleholders because of the consultations are appropriate, and reg 10A(g)(ii) was met.
116. Accordingly, for the reasons set out above, I am reasonably satisfied that consultation as per the requirements of reg 10A(g), insofar as they relate to Traditional Custodians (individuals and/or groups/entities) and nominated representative corporations and NTRBs has been satisfied.

Other 'relevant persons'

117. The EP clearly identifies who has been identified as a relevant person, includes details of the rationale the titleholder has used to determine who they consider fall within that definition and broadly describes the functions, interests or activities of those persons or organisations identified as relevant persons under reg 11A(1)(d). The EP includes reference to multiple sources of information used by the titleholder to assist in the identification of relevant persons, such as publicly available materials, review of databases and registers, published guidance, previous history and advice from authorities and other relevant persons.
118. Eight non-government groups or organisations have been identified in the EP as relevant persons, including the Australian Conservation Foundation (**ACF**), Greenpeace Australia Pacific (**GAP**), Conservation Council of Western Australia (**CCWA**), The Wilderness Society and Say No to Scarborough Gas.
119. Table 5-1 and Table 5-2 of the EP provide a comprehensive overview of the identification and assessment of the relevant persons falling within reg 11A(1)(d). I considered the nature of the activity, description of the environment and the possible impacts and risks of the activity have been taken into account when determining whose functions, interests and activities may be affected. For example:
- the titleholder considered all known environment values and sensitivities within the full extent of the environment that may be affected by the planned and unplanned impacts and risks of the activity when determining relevant persons; and
 - the titleholder considered the nature and scale of the activity and all of the possible impacts and risks of the activity when determining relevant persons.
120. I was satisfied that the process of identifying these other relevant persons was sufficient and appropriate to the activity.
121. Having identified these relevant persons, I considered the information that had been provided to them in accordance with reg 11A(2). I considered that the information provided was sufficient, in particular:
- the EP includes a description of the approach to provision of sufficient information that takes into account the functions, interests or activities of relevant persons and the possible consequences of the activity that may affect them;
 - the titleholder sufficiently informed relevant persons of the purpose of consultation, including advising relevant persons of titleholder obligations for consultation;
 - the consultation provided sufficient information about the environment and impacts on the environment to allow relevant persons to make an informed assessment of the possible consequences of the activity on their functions, interests or activities.
 - the consultation provided relevant persons with the opportunity to provide input and engage in a genuine two-way dialogue. I noted that offers were made to meet and discuss with relevant persons and steps were taken by the titleholder to create awareness of the activity and to encourage potentially relevant persons to make themselves known to the titleholder.
 - the titleholder tailored the information to suit the needs of the different types of relevant persons and provided information in a form that is readily accessible and appropriate for the relevant person being consulted. Further, the titleholder used different materials to support the provision of

information that was suited to the relevant person being consulted, such as pictorials, graphics and maps.

- f. the titleholder considered relevant persons' views of what level of information is sufficient to allow the relevant person to make an informed assessment of the possible consequences of the activity on the functions, interest or activities of the relevant person. In particular, the titleholders considered requests for additional information by certain relevant persons and provided such additional information in response to reasonable requests. Although there are examples where the titleholder did not provide certain relevant persons with additional information requested (e.g., scientific literature, copy of the latest version of the EP), I am satisfied that sufficient information was made available to the relevant person including: a link to the publicly available EP; the Consultation Information Sheet; numerous email responses tailored to a relevant person's objections and claims raised; as well as the measures the titleholder proposes to adopt as a result of the consultation undertaken.

122. I am satisfied that a reasonable period was provided for the consultations. This is because:

- a. the EP (Section 5) describes the approach taken to determining a reasonable period for consultation that is based on case-by-case consideration of the relevant person's particular circumstances and includes consideration of the nature, scale and complexity of the activity;
- b. the process for relevant persons consultation provides for the titleholder to take into account any availability and accessibility issues of relevant persons;
- c. the titleholder notes a period of more than 12 months was provided for consultation on this activity, from the date of first advertising to the date of last EP submission to NOPSEMA in October 2023, to support the case that the period allowed for consultation has been reasonable; and
- d. the titleholder considered relevant persons' views of what constitutes a reasonable period for consultation, considered requests for additional time by relevant persons, with additional time provided in response to reasonable requests. I also noted that the titleholder was proactive in sending reminders to relevant persons about impending dates for providing any response.

123. Taking all of these matters into account, I am satisfied that a reasonable period for consultation had been given (as per reg 11A(3)).

124. I accepted that reg 11A(4) was satisfied because relevant persons were informed (in similar terms to those at [92] above), that they may request that particular information provided during consultation not be published and information subject to such a request was not published.

125. For the purposes of reg 10A(g)(ii), I found that:

- a. information gathered through the consultation process with the other relevant persons under reg 11A(1)(d) has been incorporated into the EP, and effectively informed the identification of environmental values and sensitivities to ensure impacts and risks are reduced to as low as reasonably practicable and acceptable. For example, information obtained from relevant persons has informed the identification of environmental values and sensitivities where relevant and information obtained from relevant persons has been considered in the evaluation of environmental impacts and risks, and in the titleholders' processes for demonstrating that the environmental impacts and risks of the activity will be reduced to as low as reasonably practicable and acceptable levels where relevant. This includes, but is not limited to, the provision of notifications to relevant persons and other marine users as agreed to during consultation and amendments made to the OPEP as a result of relevant persons' feedback received in the preparation of the EP, and a revised cumulative underwater noise impact assessment being undertaken in response to information received;

- b. the titleholder's assessment of merit and all responses to objections and claims are reasonable and supported, and the measures adopted (if any) because of the consultation are appropriate. For example:
- i. in some cases, the titleholder's assessment of the merits of objections and claims did not result in the adoption of additional control measures because additional control measures were not reasonably practicable to implement and/or necessary to demonstrate that impacts and risks will be reduced to as low as reasonably practicable and acceptable levels. Those items that were the subject of objections and claims which NOPSEMA considered to be reasonable were required to be addressed through requests for information and opportunities to modify and resubmit. For example, in relation to controls for mitigating noise impacts to blue whales, the titleholders adopted additional control measures or improved performance standards which addressed the objections and claims of relevant persons.
 - ii. in other cases, the titleholder's assessment of the merits of objections and claims resulted in no additional control measures being adopted. As stated above [at b(i)], I am satisfied that the titleholder has demonstrated that these other control measures were not reasonably practicable to implement and/or were not necessary to demonstrate that the impacts and risks of the activity will be reduced to as low as reasonably practicable and acceptable levels. For example, relevant persons that claimed that the activity should not proceed. In relation to GAP, I considered the summary of consultation provided at Table 1, Appendix F presents a suitable demonstration that the titleholder has provided sufficient information over a reasonable period of time, for the relevant person to participate in consultation and make an informed assessment of the possible consequences of the activity on their functions, interests or activities. The record demonstrates a protracted engagement with the relevant persons on this activity. The full text of consultation records provided in the Sensitive Information Report indicate that the relevant person has demonstrated an understanding of the activity, engaged with the information, asked questions and raised a number of objections and claims. The EP demonstrates that the titleholder has assessed the merits of the objections and claims raised and provided a response.
126. I was satisfied that the measures which the titleholder adopted in response to the consultation were appropriate. Accordingly, I was reasonably satisfied that the EP met the requirements of reg 10A(g)(ii).
127. Considering the matters discussed above, I was reasonably satisfied that, in relation to relevant persons as defined by reg 11A(1)(d), the EP demonstrates that the titleholder has carried out the consultations required by Division 2.2A and the measures (if any) that the titleholder has adopted, or propose to adopt, because of the consultations are appropriate, as required by reg 10A(g).

Relevant persons under Regulation 11A(1)(e)

128. Reg 11A(1)(e) states that a titleholder must consult with 'any other person or organisation that the titleholders considers relevant'. The titleholders consulted with the following 'other persons or organisations' that it considered to be relevant:
- a. the Shire of Exmouth; and
 - b. the City of Karratha and the Karratha Community Liaison Group; and
129. I was reasonably satisfied that consultations with these persons met the requirements in reg 11A(2)-(4). The EP demonstrates that consultation took the form of emails and presentations (where requested), and were over a reasonable period (ranging from April 2022 until March 202). The information provided to the relevant persons was sufficient which included the consultation information sheets. Once again, the information that was provided was tailored to the particular relevant person.

130. Appendix F, Table 1 of the EP demonstrates that no objections or claims were raised by any of these relevant persons, and that control measures because of the consultations were not necessary. I agreed with the conclusions in this table. No substantive responses were received (as opposed to queries), which required the titleholder to consider additional measures.
131. I also acknowledged the ongoing consultation commitment in the EP. I considered this was appropriate measure which would ensure that any future feedback, objections or claims which may arise from such persons would be assessed and reported.
132. I was therefore reasonably satisfied that Reg 10A(g) was met in relation to 'relevant persons' as defined by reg 11A(1)(e).

The EP complies with the Act and Regulations: regulation 10A(h)

133. I considered the EP and was satisfied that it was compliant with the Act and Regulations, in particular that:
- a. the EP does not allow for any equipment that is not to be used for future production to be left on the seabed at the completion of the activity and includes provision for the inspection, maintenance, monitoring, and repair of subsea infrastructure installed for future production, consistent with the requirements of section 572 of the OPGGS Act (see Section 3.8). All equipment installed the has been designed to allow for removal. Table 7.4 of the EP details how all infrastructure has been designed and will be maintained at ensure that it will be able to be removed at the end of the Project, as per the requirements of Section 572 of the OPPGS Act. For example, the petroleum activity involves the installation of 265 concrete pads to enable 4D gravimetric surveys to be undertaken during the life of the activity. These have been designed and will be inspected in a manner to ensure that they will be able to be removed at the completion of the activity. Equally the 20 suction piles required for the Floating Production Unit (FPU) mooring will be installed in a reversible manner enabling their removal at the completion of the activity; and
 - b. consultation with relevant persons (Section 5) has informed the titleholder in its obligations under s280 of the OPGGS Act that, the proposed petroleum activity will not interfere with navigation, fishing, conservation of resources of the sea and seabed, other offshore electricity infrastructure and petroleum activities, and the enjoyment of native title rights and interests (within the meaning of the *Native Title Act 1993*) to a greater extent than is necessary for the reasonable exercise of the titleholder's rights and obligations.
134. For the reasons set out above (at [20] – [38]) I was satisfied that the EP addressed the content requirements of regs 13-16 of the Environment Regulations with enough clarity, consistency and detail commensurate to the nature and scale of the activity. Specifically:
- a. the titleholder has submitted the EP in writing as required by regulation 9(6) of the Environment Regulations; and
 - b. the EP commits to complying with the requirements in regulations 26, 26A, 26AA, 26B, 26C, 27, 28 and 29 regarding various notifications and reporting to NOPSEMA as well as storage and access to records (Section 7.8).
135. Based on the above, I was reasonably satisfied that the EP met the requirements of regulation 10(h).

Other considerations

Principles of ecological sustainable development (ESD)

136. The Regulations provide that their object is to ensure that any activity or greenhouse gas activity carried out in an offshore area is carried out in a manner consistent with the principles of ESD set out in section 3A of the EPBC Act. I considered that the EP was consistent with the principles of ESD, as provided below:
- a. Decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the 'integration principle'):
 - i. The EP includes the titleholder's evaluation of the socio-economic, cultural and ecological features of the EMBA by the activity and consultation with relevant persons which demonstrates an integrated approach to considering all environmental features, including relevant social, cultural and economic features that make up the definition of environment under regulation 4. Further, the EP includes an evaluation of the potential impacts and risks of the petroleum activity on cultural heritage, commercial fisheries, traditional fisheries, tourism and recreation, commercial shipping, oil and gas and defence activities. In the context of the duration of the activity (18 months), I considered that the EP demonstrated that both long term and short term economic, environment, social and equitable considerations has been considered and addressed.
 - b. If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the 'precautionary principle'):
 - i. The EP detailed the titleholder's evaluation of environmental impacts and risks, the reasons and evidence in support of how the impacts and risks will be of an acceptable level and suitable approaches for addressing scientific uncertainty associated with predictions of environmental impacts and risks and the measures in place for continuing to identify and manage impacts and risks during the life of the activity. Consideration was also given in the EP to the effectiveness of management measures in ensuring the petroleum activity will not result in serious or irreversible environmental harm, specifically it was noted that the petroleum activity will not have a significant impact on a MNES and will not result in serious or irreversible environmental damage.
 - c. That the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the 'intergenerational principle'):
 - i. In the context of the duration of the activity (18 months), the EP identifies appropriate measures to minimise the environmental impacts and risks of the petroleum activity. The titleholder applied a mitigation hierarchy, such that where avoidance was not possible, control measures were adopted to ensure impacts and risks are managed to ALARP and an acceptable level. I considered this was consistent with the intergenerational principle.
 - d. The conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the 'biodiversity principle'):
 - i. The EP included the titleholder's evaluation of environmental impacts and risks to the biodiversity and ecological values of the Commonwealth marine area, including EPBC Act listed threatened and/or migratory species, and the EPOs defined in the EP. I noted that the titleholder defined acceptable levels of impact and risk for biodiversity and ecological values at levels that are below the significant impact criteria (defined in Significant Impact Guidelines 1.1 – Matters of National

Environmental Significance) for matters protected under Part 3 of the EPBC Act. I have specifically considered at paragraph 48 to 52 above, that the impacts and risks to whales have been reduced to ALARP and will be of an acceptable level.

- ii. There is evidence in the EP that the titleholder undertook a robust evaluation of environmental impacts and risks using appropriate impact assessment tools (such as noise and oil spill modelling) to provide the basis for assessing higher order impacts and risks and demonstrating that impacts and risks will be managed at or below the acceptable level;
 - iii. The EP contains an assessment against relevant requirements of statutory instruments to demonstrate that the activity would not be inconsistent with these instruments (such as the Conservation Management Plan for the Blue Whale).
 - iv. The environmental impact and risk evaluations and EPOs in the EP collectively demonstrate that the activity will be managed such that impacts and risks to biological diversity and the ecological integrity of the Commonwealth marine area will be of an acceptable level.
 - v. I concluded that the petroleum activity will not have a significant impact on MNES protected under the EPBC Act including World Heritage properties, National Heritage properties, Ramsar wetlands of international significance, listed threatened species and communities, listed migratory species, Commonwealth marine areas, and the Great Barrier Reef Marine Park.
- e. Improved valuation, pricing and incentive mechanisms should be promoted (the 'valuation principle').
- i. The EP construct is such that the titleholder is required to bear the costs relating to environmental management of the activity, to ensure that environmental impacts and risks are managed to ALARP and to an acceptable level. I considered that the onus is on the titleholder to protect ecological services and capital associated with the EMBA of the activity, and to the extent that the valuation principle is relevant for an individual activity, the EP demonstrates compliance with Australian government legislation and policy requirements relating to environmental management.

The Program: protected matters under Part 3 of the EPBC Act

137. The Program endorsed under section 146 of the EPBC Act outlines the environmental management authorisation process for offshore petroleum and greenhouse gas activities administered by NOPSEMA and requires NOPSEMA to comply with Program responsibilities and commitments.
138. In implementing the Program, NOPSEMA conducts assessments of EPs against the requirements of the Program, which includes meeting the acceptance criteria and content requirements under the Environment Regulations. Specific Program commitments relating to protected matters under Part 3 of the EPBC Act are outlined in Table 2 of the Program report and must be applied during decision-making with respect to offshore projects and activities.
139. I considered matters protected under Part 3 of the EPBC Act, including listed threatened and migratory species and the Commonwealth marine area, and was reasonably satisfied that the activity under the EP met the requirements of the Program on the basis that:
- a. the activity will not result in unacceptable impacts on listed threatened species and is not inconsistent with relevant recovery plans and threat abatement plans for listed threatened species. I note my reasons above (see [48], [51]), where I have considered these documents when determining the acceptability of the EP where impacts to listed threatened species may arise;

- b. there are control measures in place to ensure that impacts to the Commonwealth marine area will be of an acceptable level, having regard to relevant policy documents, gazettal instruments, bioregional plans, wildlife conservation plans, plans of management and EPBC Act guidance documents on the DCCEEW website. See my reasons at [48], [50] and [51]; and
- c. there are control measures in place to ensure that the petroleum activity will not result in unacceptable impacts to a migratory species or an area of important habitat for a migratory species, having regard to relevant policy documents, wildlife conservation plans and guidelines on the DCCEEW website. See my reasons at [48], [50] and [51].

The Program: indirect consequences of an action

140. Under the Program, NOPSEMA must have regard to EPBC Act requirements, including *EPBC Act Policy Statement - 'Indirect consequences' of an action: Section 527E of the EPBC Act (indirect consequences policy)*. NOPSEMA gives consideration to the policy to determine where indirect consequences may be considered an 'impact' of a petroleum activity. This consideration is on a case-by-case basis against the particular circumstances of the petroleum activity in accordance with the criteria set out in the policy.
141. In assessing the EP, I had regard to the indirect consequences policy, in particular in relation to indirect GHG emissions. I gave consideration as to whether the petroleum activity is a substantial cause of GHG emissions from the processing, consumption and combustion of gas, and are facilitated to a major extent by the petroleum activity, within the contemplation of the titleholder, and are a reasonably foreseeable consequence of the petroleum activity.
142. Having regard to the indirect consequences policy and the assessment team's findings and conclusions, I agreed that:
- a. the activity the subject of this EP relates to the installation of subsea infrastructure as a conduit to the production wells and floating production unit. The extraction of gas for onshore processing is therefore not authorised by my decision;
 - b. while the activity is a necessary precursor to the extraction of gas, further activities are required prior to the point any gas can be extracted, processed, consumed or combusted and will themselves be subject to a separate assessment and approval process; and
 - c. future activities require their own EP under the Environment Regulations including consideration of the indirect consequences policy and appropriate coverage of impacts for each activity, based on the case specific circumstances. Therefore, I consider that emissions from gas processing, consumption and combustion of gas are not facilitated to a major extent by the activity and would not be considered a substantial cause of emissions generated in the future from processing, consumption, or combustion of gas.

The Program: cumulative environmental impacts

143. In the context of the Program, cumulative impacts refer to the direct and indirect impacts of a number of different petroleum activity actions that may influence the natural environment or other users within a locality or region, which when considered together, have a greater impact on the offshore marine environment than each action or influence considered individually.
144. NOPSEMA considered the potential for cumulative environmental impacts to the Commonwealth marine area as required by the Program. NOPSEMA is reasonably satisfied that the environmental impacts of the petroleum activity combined with existing and future pressures on the Commonwealth marine area would be of an acceptable level, because:

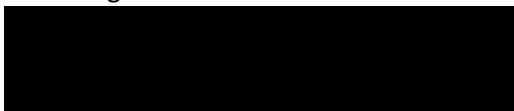
- a. the EP considered the potential cumulative impacts of the petroleum activity (Section 6.2.1), a cumulative impact assessment was carried out for routine acoustic emissions. It was determined that cumulative impact from activities within the Petroleum Activities Program, as well as between the Petroleum Activities Program, Scarborough Drilling and Completions and the Scarborough Seabed Intervention and Trunkline Installation activities, was not credible for light emissions and vessel discharges. The impact evaluations in combination with the associated control measures provide confidence that impacts of the petroleum activity, when considered in the context of other anthropogenic pressures, will be of an acceptable level; and
- b. NOPSEMA notes that other petroleum activities proposed for the Scarborough project (such as subsea infrastructure installation) will be subject to separate EPs, of which NOPSEMA will consider as part of the EP assessment, the potential for cumulative impacts to the Commonwealth marine area.

Conclusion

145. For the reasons set out above, I was reasonably satisfied that the EP met the following criteria set out in sub-regulation 10A of the Environment Regulations and should therefore be accepted:

- a. the EP is appropriate for the nature and scale of the activity; and
- b. the EP demonstrates that the environmental impacts and risks of the activity will be reduced to as low as reasonably practicable; and
- c. the EP provides for appropriate EPOs, EPSs, and measurement criteria; and
- d. the EP includes an appropriate implementation strategy and monitoring, recording and reporting arrangements; and
- e. the EP does not involve the activity or part of the activity, other than arrangements for environmental monitoring or for responding to an emergency, being undertaken in any part of a declared World Heritage property within the meaning of the EPBC Act; and
- f. the EP demonstrates that:
 - i. the titleholder has carried out the consultations required by Division 2.2A; and
 - ii. the measures (if any) that the titleholder has adopted, or proposes to adopt, because of the consultations are appropriate; and
- g. the EP complies with the Act and the regulations.

Signed



22 December 2023

Appendix A: Relevant terms

146. In this statement, the words and phrases have the following meaning:

- a. The Offshore Petroleum and Greenhouse Gas Storage Act 2006 is referred to as the OPGGS Act.
- b. The National Offshore Petroleum Safety and Environmental Management Authority is referred to as NOPSEMA.
- c. The Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 are referred to as the Environment Regulations.
- d. The Environment Plan (EP) means the Scarborough WA-61-L and WA-62-L Subsea Infrastructure Installation Environment Plan (Document No: SA0006AH0000008, Revision 3, dated October 2023).
- e. The Environment Protection and Biodiversity Conservation Act 1999 is referred to as the EPBC Act.
- f. The titleholder means Woodside Energy Scarborough Pty Ltd.
- g. The term 'petroleum activity' means the Scarborough Drilling and Completions activity.
- h. The term 'environment' means:
 - i. ecosystems and their constituent parts, including people and communities; and
 - ii. natural and physical resources; and
 - iii. the qualities and characteristics of locations, places and areas; and
 - iv. the heritage value of places; and includes
 - v. the social, economic and cultural features of the matters mentioned in paragraphs (i), (ii), (iii) and (iv).
- i. The term 'environmental impact' means any change to the environment, whether adverse or beneficial, that wholly or partially results from an activity.
- j. The term 'control measure' means a system, an item of equipment, a person or a procedure, that is used as a basis for managing environmental impacts and risks.
- k. The term 'environmental management system' includes the responsibilities, practices, processes and resources used to manage the environmental aspects of an activity.
- l. The term 'environmental performance' means the performance of a titleholder in relation to the environmental performance outcomes and standards mentioned in an environment plan.
- m. The term 'environmental performance outcome' (EPO) means a measurable level of performance required for the management of environmental aspects of an activity to ensure that environmental impacts and risks will be of an acceptable level.
- n. The term 'environmental performance standard' (EPS) means a statement of the performance required of a control measure.
- o. The term 'principles of ecologically sustainable development' (ESD) means the principles of ESD set out in Section 3A of the EPBC Act.
- p. The term 'relevant person' has the meaning provided under regulation 11A of the Environment Regulations.
- q. The term 'Operational Area' (OA) is taken to be the operational area for the petroleum activity as defined in Section 3.5 of the EP.

- r. The Program Report – Strategic Assessment of the environmental management authorisation process for petroleum and greenhouse gas storage activities administered by the National Offshore Petroleum Safety and Environmental Management Authority under the Offshore Petroleum and Greenhouse Gas Storage Act 2006 that was endorsed on 7 February 2014, is referred to as the Program.
 - s. The term ‘as low as reasonably practicable’ is referred to as ‘ALARP’.
147. Terms used in this Statement of Reasons which are defined in the Environment Regulations or the OPGGS Act have the same meaning as under the Environment Regulations or OPGGS Act.

Appendix B: Legislative framework

148. All offshore petroleum activities that are undertaken for the purpose of petroleum recovery, other than on an appraisal basis, are required to have an Offshore Project Proposal (OPP) accepted by NOPSEMA under the Environment Regulations or an equivalent approval by the Environment Minister under the EPBC Act.
149. The OPP framework enables a proponent to achieve a whole of project authorisation; however, it does not permit offshore petroleum activities to commence until an EP (or multiple EPs) for the activities has been accepted by NOPSEMA under the Environment Regulations.
150. Additional approvals may be required before a titleholder can commence a petroleum activity. A Well Operations Management Plan (WOMP) is required to be accepted by NOPSEMA under the Offshore Petroleum and Greenhouse Gas Storage (Resource Management and Administration) Regulations 2011 for petroleum activities that involve well-related activities. A Safety Case is required to be accepted by NOPSEMA under the Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009 for facilities involved in the petroleum activity.
151. The Environment Regulations provide that:
- a. Before commencing a petroleum activity², a titleholder must submit an EP for the petroleum activity to the Regulator (regulation 9(1)).
 - b. A petroleum activity means any operation or works in an offshore area carried out for the purpose of (a) exercising a right conferred on a petroleum titleholder under the OPGGS Act by a petroleum title; or (b) discharging an obligation imposed on a petroleum titleholder by the OPGGS Act or a legislative instrument under the OPGGS Act (regulation 4).
 - c. An EP for a petroleum activity that is, or is part of, an offshore project may only be submitted if the Regulator has accepted an OPP that includes that activity or if the Environment Minister has made a decision or granted approval under the EPBC Act relating to an action that is equivalent or includes that activity (regulation 9(3)).
 - d. If a titleholder submits an EP, the Regulator may request the titleholder to provide further written information about any matter required by the Environment Regulations to be included in the EP (regulation 9A).
 - e. If a titleholder receives a request under regulation 9A, they must provide the information requested by incorporating the information into the EP and resubmitting the EP within the period specified or within a longer period agreed to by the Regulator.
 - f. If the EP is resubmitted under regulation 9A, the Regulator must have regard to that further information in making the decision under regulation 10.
 - g. Within 30 days after the day the Regulator publishes the EP (under regulation 9AB) if the Regulator is:
 - i. reasonably satisfied that the EP meets the criteria set out in regulation 10A, the Regulator must accept the EP (regulation 10(1)(a));

² Petroleum activity is defined under regulation 4 of the Environment Regulations.

- ii. not reasonably satisfied that the EP meets the criteria set out in regulation 10A, the Regulator must give the titleholder notice in writing (regulation 10(2)); or
 - iii. if the Regulator is unable to make a decision on the EP within the 30 day period, the Regulator must give the titleholder notice in writing and set out a proposed timetable for consideration of the EP (regulation 10(1)(c)).
- h. A notice to a titleholder under regulation 10(2) must:
- i. state that the Regulator is not reasonably satisfied that the EP submitted by the titleholder meets the acceptance criteria set out in regulation 10A;
 - ii. identify the criteria set out in regulation 10A about which the Regulator is not reasonably satisfied; and
 - iii. set a date by which the titleholder may resubmit the EP.
- i. Pursuant to regulation 5G, NOPSEMA must not accept an environment plan unless it is reasonably satisfied that the titleholder is compliant with subsection 571(2) of the Act in relation to the petroleum activity, and the compliance is in a form that is acceptable to NOPSEMA.
- j. Regulation 10A provides the acceptance criteria the Regulator must consider in determining whether to accept an EP, and includes that the plan:
- i. is appropriate for the nature and scale of the activity;
 - ii. demonstrates that the environmental impacts and risks of the activity will be reduced to ALARP;
 - iii. demonstrates that the environmental impacts and risks of the activity will be of an acceptable level;
 - iv. provides for appropriate environmental performance outcomes (EPOs), environmental performance standards (EPSs) and measurement criteria;
 - v. includes an appropriate implementation strategy and monitoring, recording and reporting arrangements;
 - vi. does not involve the activity or part of the activity, other than arrangements for environmental monitoring or for responding to an emergency, being undertaken in any part of a declared World Heritage property within the meaning of the EPBC Act;
 - vii. demonstrates that:
 - A. the titleholder has carried out the consultation required by Division 2.2A; and
 - B. the measures (if any) that the titleholder has adopted, or proposes to adopt, because of the consultation are appropriate; and
 - viii. complies with the OPGGS Act and the Environment Regulations.
- k. Regulation 10(6)b provides that the Regulator may accept the plan subject to limitations or conditions applying to operations for the activity.
152. The Environment Regulations provides for the authorisation of a petroleum activity, but does not authorise an oil spill, which is considered for risk evaluation and contingency planning in the EP only. Section 569 of the OPGGS Act places obligations on petroleum titleholders to control the flow and prevent the escape of petroleum within the permit area, lease area or licence area.
153. The Environment Regulations impose a duty on the titleholder to demonstrate to NOPSEMA in the EP that a proposed activity will be carried out in a manner:

- a. consistent with the principles of ecological sustainable development set in section 3A of the EPBC Act; and
- b. by which impacts and risks of the activity will be reduced to as low as reasonably practicable (ALARP) and acceptable levels.

Appendix C: Key materials considered in making the decision

154. In making this decision, NOPSEMA considered the documents making up the EP submission in accordance with legislative requirements and NOPSEMA's policies and procedures. The key material that NOPSEMA had regard to in making this decision includes, but not limited to:

- a. The EP, comprising:
 - i. Scarborough WA-61-L and WA-62-L Subsea Infrastructure Installation Environment Plan (Document No: SA0006AH0000008, Revision 3, dated October 2023);
 - ii. Oil Pollution Emergency Arrangements – Australia – Guideline (Document No: W0000AV0003.0001, Revision 17); and
 - iii. Scarborough WA-61-L and WA-62-L Subsea Infrastructure Installation Environment Plan Sensitive Information Report (Revision 3, dated October 2023).
- b. Scarborough Offshore Project Proposal (OPP) (Document No. SA0006AF0000002, Revision 5) and supporting documentation (Appendices A, B, C, D, E, F, G, H, I, J, K, L, and M), accepted by NOPSEMA on 30 March 2020 (as referred to by the titleholder under regulation 31 in the EP);
- c. The legislative framework relevant to EP assessments, including:
 - i. the OPGGS Act;
 - ii. the Environment Regulations; and
 - iii. the Program³.
- d. NOPSEMA Environment plan assessment policies, guidelines and guidance:
 - i. NOPSEMA Assessment policy (N-04000-PL0050);
 - ii. NOPSEMA Environment plan assessment policy (N-04750-PL1347);
 - iii. NOPSEMA Financial assurance for petroleum titles policy (N-04730-PL1780);
 - iv. NOPSEMA Section 572 Maintenance and removal of property regulatory policy (N-00500-PL1903);
 - v. NOPSEMA Managing gender-restricted information (draft) (N-04750-PL2098);
 - vi. NOPSEMA Financial assurance for petroleum titles guideline (N-04730-GL1381);
 - vii. NOPSEMA Environment plan decision making guideline (N-04750-GL1721);
 - viii. NOPSEMA Consultation in the course of preparing an Environment Plan guideline (N-04750-GL2086);
 - ix. NOPSEMA Environment plan content requirements guidance note (N-04750-GN1344);
 - x. NOPSEMA Making submissions to NOPSEMA guideline (N-04000-GL0225);
 - xi. NOPSEMA Petroleum activities and Australian marine parks guidance note (N-04750-GN1785);

³ <https://www.environment.gov.au/protection/assessments/strategic/offshore-petroleum-greenhouse-gas>

- xii. NOPSEMA Consultation with Commonwealth agencies with responsibilities in the marine area guideline (N-06800-GL1887);
 - xiii. NOPSEMA Oil pollution risk management guidance note (N-04750-GN1488);
 - xiv. NOPSEMA Operational and scientific monitoring programs information paper (N-04750-IP1349);
 - xv. NOPSEMA Acoustic impact evaluation and management information paper (N-04750-IP1765);
 - xvi. NOPSEMA Petroleum activity guidance note (N-04750-GN1343);
 - xvii. NOPSEMA Source control planning and procedures information paper (N-04750-IP1979);
 - xviii. NOPSEMA Environmental bulletin — oil spill modelling (April 2019);
 - xix. NOPSEMA Blue Whale Conservation Management Plan – Frequently asked questions (November 2021); and
 - xx. NOPSEMA Consultation on offshore petroleum environment plans brochure (May 2023).
- e. Procedures:
- i. NOPSEMA Environment plan assessment standard operating procedure (N-04750-SOP1369).
- f. Other relevant documents and records:
- i. NOPSEMA's assessment team notes regarding assessment of how the EP met the acceptance criteria set out in regulation 10A of the Environment Regulations;
 - ii. relevant advice from other agencies or organisations:
 - A. advice received on 22 March 2022 from the Protected Species and Communities Branch at the Department of Climate Change, Energy, the Environment and Water (DCCEEW) (formerly *Department of Agriculture, Water and the Environment*) in response to NOPSEMA's request for information on biologically important areas for blue whales;
 - B. advice received on 27 July 2022 from the National Indigenous Australians Agency (NIAA) in response to NOPSEMA's request for advice on the appropriate cultural authority to provide information on the cultural heritage values and relevant persons associated with sea country off the Burrup Peninsula;
 - C. letter dated 05 October 2022 from the National Offshore Petroleum Titles Administrator (NOPTA) in response to NOPSEMA's request for information related to the geological field integrity of the Scarborough Field Development;
 - D. expert report of Extent Heritage Pty Ltd (dated 18 October 2022), engaged by NOPSEMA to provide Aboriginal cultural heritage advice in relation to the Scarborough 4D B1 Marine Seismic Survey (MSS) and broadly applicable to the geographic area of the Scarborough Drilling and Completions activity.
 - iii. Published consultation guidance by relevant persons:
 - A. Australian Fisheries Management Authority, Petroleum industry consultation with the commercial fishing industry, available at: <https://www.afma.gov.au/petroleum-industry-consultation-commercial-fishing-industry>;
 - B. Department of Agriculture, Fisheries and Forestry (DAFF), Fisheries and the environment – Offshore Petroleum and Fisheries, available at: <https://www.agriculture.gov.au/agriculture-land/fisheries/environment/opgga>;

- C. Department of Climate Change, Energy, the Environment and Water, Interim Engaging with First Nations People and Communities on Assessments and Approvals under the *Environment Protection and Biodiversity Conservation Act 1999* (2023);
 - D. WA Department of Fisheries, Guidance statement for oil and gas industry consultation with the Department of Fisheries, Fisheries Occasional Publication No. 113, July 2013;
 - E. WA Department of Transport, Offshore Petroleum Industry Guidance Note, Marine Oil Pollution: Response and Consultation Arrangements, July 2020; and
 - F. Western Australian Fishing Industry Council, Consultation approach for unplanned events, available at: <https://www.wafic.org.au/what-we-do/access-sustainability/oil-gas/consultation-approach-for-unplanned-events/>.
- iv. relevant published, peer-reviewed scientific literature, including the scientific literature cited in the EP.
- v. relevant policies, plans of management, recovery plans, conservation advice and other guidance for matters protected under the EPBC Act, including, but not limited to:
- A. Department of the Environment, Water, Heritage and the Arts, Significant Impact Guidelines 1.1 – Matters of National Environmental Significance, EPBC Act Policy Statement (2013);
 - B. Department of Sustainability, Environment, Water, Population and Communities, 'Indirect consequences' of an action: Section 527E of the EPBC Act, EPBC Act Policy Statement (2013);
 - C. Department of the Environment and Energy, National Light Pollution Guidelines for Wildlife Including Marine Turtles, Seabirds and Migratory Shorebirds (2020);
 - D. Commonwealth of Australia, Recovery Plan for Marine Turtles in Australia 2017–2027 (2017);
 - E. Commonwealth of Australia, Conservation Management Plan for the Blue Whale 2015–2025 (2015);
 - F. Department of Agriculture, Water and the Environment, Guidance on key terms within the Blue Whale Conservation Management Plan (2021);
 - G. Commonwealth of Australia, Conservation Management Plan for the Southern Right Whale 2011-2021 (2012);
 - H. Commonwealth of Australia, Threat Abatement Plan for the impacts of marine debris on the vertebrate wildlife of Australia's coasts and oceans (2018);
 - I. Commonwealth of Australia, Wildlife Conservation Plan for Seabirds (2020);
 - J. Department of Sustainability, Environment, Water, Population and Communities, Marine Bioregional Plan for the North-west Marine Region (2012); and
 - K. Director of National Parks, North-west Marine Parks Network Management Plan (2018).
- vi. relevant legislative requirements that apply to the activity and are relevant to the environmental management of the activity.
- vii. relevant Federal Court authority.